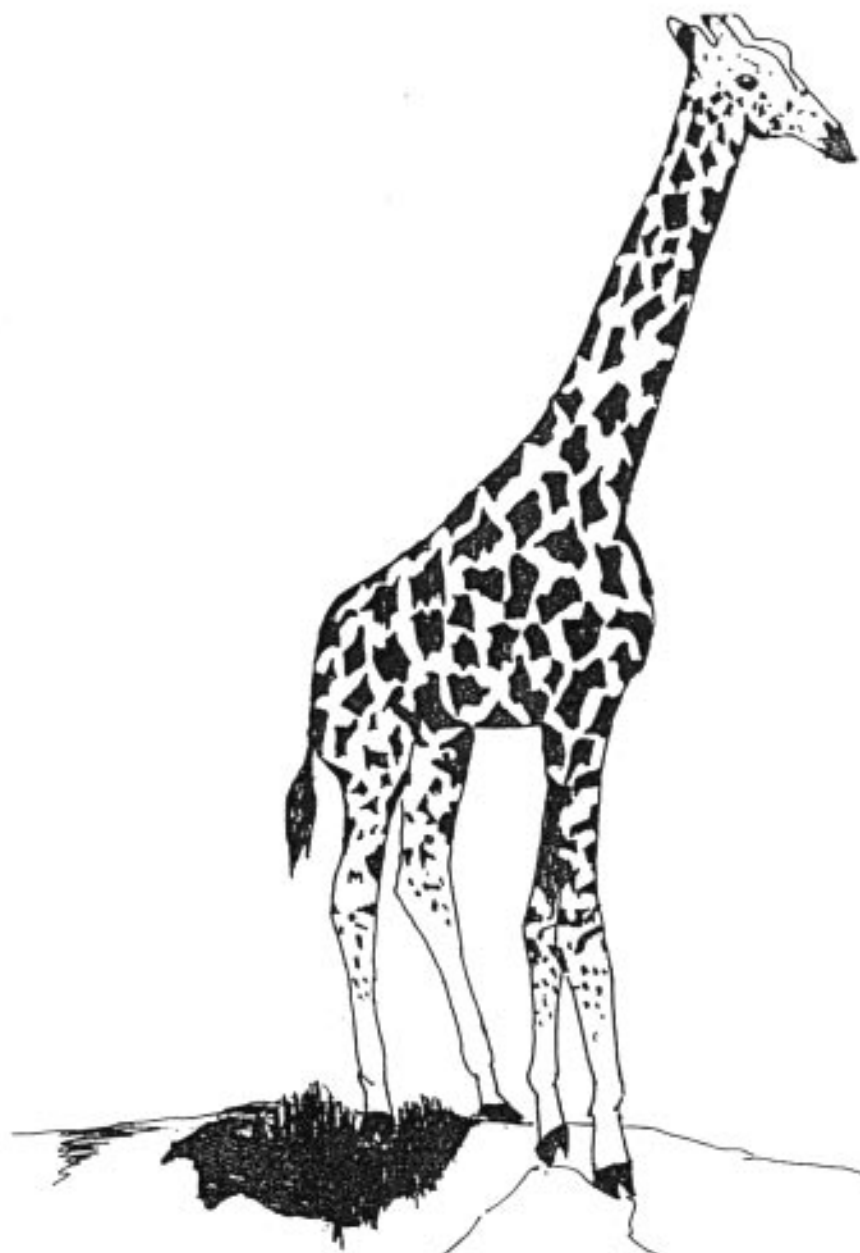


TEXAS REGISTER

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Artist: *Vuong Loi*

8th grade

Haltom Middle School, Birdville ISD

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EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the ***Texas Register***, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 14. School Bus Transportation

Subchapter D. School Bus Lighting and Warning Device Equipment

37 TAC§14.51, §14.52

The Texas Department of Public Safety is renewing the effectiveness of the emergency adoption of new §14.51 and §14.52,

for a 60-day period. The text of new §14.51 and §14.52 was originally published in the June 11, 1996, issue of the *Texas Register* (21 TexReg 5210).

Issued in Austin, Texas, on September 9, 1996.

TRD-9613575

Dudley M. Thomas

Director

Texas Department of Public Safety

Effective date: September 29, 1996

Expiration date: October 29, 1996

For further information, please call: (512) 424-2890

◆ ◆ ◆

PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 7. BANKING AND SECURITIES

Part I. Finance Commission of Texas

Chapter 1. Consumer Credit Commissioner

Subchapter C. Motor Vehicle Installment Sales Contract Provisions

7 TAC §§1.401–1.407

The Finance Commission of Texas (the commission) proposes new §§1.401-1.407, concerning model provisions for motor vehicle installment sales contracts.

The section as proposed sets out clauses and disclosures for motor vehicle installment sales contracts.

Leslie L. Pettijohn, consumer credit commissioner, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of administering the sections.

Ms. Pettijohn also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of the new sections will be enhanced compliance with the credit laws and increased uniformity and consistency in credit contracts. No net economic cost will result to persons affected by these sections. There is no adverse impact to small business. No difference will exist between the cost of compliance for small businesses and the cost of compliance for the largest businesses affected by this sections.

Comments on the proposed section may be submitted in writing to Leslie L. Pettijohn, consumer credit commissioner, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207.

The new sections are proposed under the Texas Banking Act, §1.014 (Vernon's Texas Civil Statutes, Article 342-1.014), which authorizes the commission to adopt rules for ensuring compliance with Title 79, Revised Statutes (Vernon's Texas Civil Statutes, Article 5069-1.01 *et seq.*)

Texas Civil Statutes, Article 5069, is affected by this proposed new section.

§1.401. Purpose.

The purpose of these rules is to promote compliance with the requirements of Article 5069-7.01 *et seq.*, by creditors. The establishment

of model provisions for these transactions will encourage uniformity that ultimately benefits consumers who are faced with deciphering numerous different contracts. The use of the model clauses by creditors is not mandatory. However, use of these provisions provides creditors with certain defenses as found in Article 5069-8.01(f). The provisions are not intended to constitute a complete credit contract for the purchase of a motor vehicle because these provisions only specifically address credit issues and not all general contract issues.

§1.402. Conflict with federal law.

In the event of any inconsistency or conflict between the disclosure or notice requirements in these provisions and any current or future federal law, regulation, or interpretation, the requirements of the federal law, regulation, or interpretation shall control.

§1.403. Contract designation.

A credit contract for the purchase of a motor vehicle in conformity with Article 5069-7.01 *et seq.*, shall be designated as a "Retail Installment Contract" or a "Motor Vehicle Installment Sales Contract."

§1.404. Definitions.

The following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Scheduled installment earnings method" or "Hybrid earnings method"—The finance charge is calculated by applying a daily rate to the unpaid balance of the amount financed as if all payments will be made upon the scheduled installment date. Payments received before or after the due date do not cause an adjustment in the amount of the scheduled principal reduction. In the event prepayment in full or demand for payment in full occurs on a date during an installment period, the daily rate, which is 1/365th of the annual rate, is applied to the unpaid principal balance from the date of the previous scheduled installment to the date of prepayment or acceleration.

(2) "Seller"—The seller of the motor vehicle but also includes any subsequent holder or assignee of the retail installment contract.

(3) "True daily earnings method"—The finance charge is computed by applying a daily rate to the unpaid balance of the amount financed. The daily rate is 1/365th of the equivalent contract rate. The earned finance charge is computed by multiplying the daily rate of the finance charge times the number of days the actual principal balance is outstanding. Payments are credited at the time received; therefore, payments received prior to the scheduled installment date result in a greater reduction of principal than the scheduled reduction,

and payments received after the scheduled installment date result in less than the scheduled reduction of principal. No late charges may be accrued under this method.

§1.405. Required disclosures and contract provisions.

The creditor shall comply with the requirements of the Truth in Lending Act, Regulation Z, and the Official Staff Commentary on Regulation Z, as applicable. The creditor shall make the following disclosures and contract provisions, as applicable:

- (1) Consumer warning.
- (2) The disclosure of the Buyer's acknowledgment of receipt of retail installment contract shall appear directly above the Buyer's signature.
- (3) The cash price may be disclosed as a separate item in the Itemization of Amount Financed, as a separate item in the body of the agreement, or both.
- (4) Amount of downpayment, specifying the amounts paid in money and in goods traded in.
- (5) Itemized charges.
- (6) The method for computing earnings shall be contained within the credit contract.
- (7) A creditor may request or require credit life insurance, credit health and accident insurance, and/or require property damage insurance to protect the secured property, and may include the cost of the insurance as a separate charge in the contract. A buyer shall have the option of furnishing evidence of equivalent coverage. The contract shall clearly disclose the type of coverage and related premium and shall indicate whether the coverage is required or optional.
- (8) Notice of Exclusion of bodily injury and property damage insurance, if excluded.
- (9) Consumer credit commissioner notice.
- (10) A documentary fee shall be disclosed as a separate item in the contract if it is charged. If the language used in the sales presentation and the language of the retail installment contract are different, the Seller shall furnish to the Buyer the documentary fee disclosure in the language used in the sales presentation.
- (11) Security agreement.
- (12) Default and repossession provisions.
- (13) Assignment and negotiation provisions.

§1.406. Optional contract provisions.

A buyer and a seller may agree to other terms and conditions in a contract. Examples of these provisions are:

- (1) Exclusion of implied warranties as provided in the Business & Commerce Code, §2.316.
- (2) Used motor vehicle trade regulation rule notice.
- (3) Agreement to keep vehicle free of liens and encumbrances.
- (4) Agreement to keep vehicle in good working order and repair.

§1.407. Appendices.

Supplemental model clauses.

(1) *Model clause for consumer warning.* The following notice shall be printed in a size equal to at least ten-point type that is boldface, capitalized, underlined, or otherwise set out from surrounding written material so as to be conspicuous:

(A) For use with precomputed contracts using the sum of the monthly balances (Rule of 78s): NOTICE TO THE BUYER – DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE FINANCE CHARGE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS.

(B) For use with hybrid earnings or scheduled installment earnings method: NOTICE TO THE BUYER – DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS.

(2) *Model clause for Buyer's acknowledgment of contract receipt.* Buyer signed and received a completed copy of the contract on _____. (Mo.) (Day) (Yr.)

(3) *Model clause for disclosure of cash price:* Buyer has elected to purchase the below described motor vehicle from the Seller over time for the Cash Price of \$_____ together with finance charges on the terms and conditions set forth in this contract.

(4) *Itemization of Amount Financed.*

Figure 1: 7 TAC 1.407

(5) *Model clause for federal disclosure box.*

Figure 2: 7 TAC 1.407

Figure 3: 7 TAC 1.407

Figure 4: 7 TAC 1.407

(6) *Model clause for time price differential earnings provisions:* The charge for credit in this Contract is referred to as "time price differential" or "finance charge."

(A) For use with precomputed contracts using the sum of the monthly balances (Rule of 78s):

(i) *Finance charge calculation.* The Buyer may prepay the unpaid balance of this Contract at any time before maturity and receive a refund of time price differential (Finance Charge). If the Contract is paid off early or the creditor accelerates the balance of the Contract, all of the finance charge in excess of the portion earned shall be refunded or credited to the Buyer. The refund or credit shall represent at least as great a proportion of the finance charge, after first deducting therefrom an acquisition fee of \$25 as

(I) the sum of the monthly balances (Rule of 78s) under the schedule of payments in the Contract beginning as of the date after the prepayment or demand for payment in full which is the next succeeding monthly anniversary date of the due date of the first installment under the Contract, or, if the prepayment or demand for payment in full is prior to the due date of the first installment under the Contract, then as of the date after the prepayment or demand for payment in full, which is one month after the next succeeding monthly anniversary date of the date of the Contract, bears to

(II) the sum of all the monthly balances under the schedule of payment in the Contract. When the amount of refund credit is less than One Dollar no refund credit need be made. In the case of a heavy commercial vehicle, in lieu of the \$25 acquisition charge described above, an acquisition charge of \$150 may be deducted after the above described calculation.

(ii) *Late charge.* For any scheduled installment payment more than 15 days late (10 days late in the case of a heavy commercial vehicle as defined in Article 7 of the *Texas Credit Code*), Seller may assess a late charge of 5% of such installment, or, in the alternative, Seller may charge interest after maturity on any late installment payment at the rate of ___% per annum.

(B) For use with true daily earnings method: *Finance charge calculation.* The Buyer may prepay the unpaid balance of this Contract at any time without penalty. Finance charge will accrue at the disclosed contract rate until maturity, whether by acceleration or otherwise. The daily rate of the finance charge will be 1/365th of the disclosed contract rate. The earned finance charge will be computed by multiplying the daily rate of the finance charge times the number of days the actual principal balance is outstanding. The total amount of finance charge that may be earned under this Contract may differ from the total amount disclosed in the finance charge box in this Contract if the unpaid principal balance is not paid according to the Payment Schedule disclosed in this Contract.

(C) For use with hybrid earnings or scheduled installment earnings method:

(i) *Finance charge calculation.* The Buyer may prepay the unpaid balance of this Contract at any time prior to maturity without penalty and will not pay any unearned time price differential (Finance Charge). In the event of prepayment in full or demand for payment in full, Seller will retain, in addition to a \$25 (\$150 in the case of a heavy commercial vehicle) acquisition cost (except as hereinafter provided), earned finance charge from the date of the Contract to the date of prepayment in full or the date of demand for payment in full. The earned time price differential shall be in an amount not to exceed that which would accrue, having due regard for the amount and time of each scheduled installment, at the simple annual time price differential rate this Contract would have produced over its full term if each scheduled installment had been paid on the date due when applied to the unpaid principal amount determined to be outstanding from time to time according to the schedule of payments. In the event prepayment in full or demand for payment in full occurs on a date other than an installment due date, the Seller, in addition to time price differential earnings for the installment period or periods that have elapsed, may retain for each day elapsed from the immediately preceding installment due date to the date of prepayment in full or demand for payment in full an amount of time price differential produced by applying the simple annual time price differential rate under the contract as heretofore described to the unpaid principal balance of the Contract determined to be outstanding according to the schedule of payments as of the immediately preceding installment due date and dividing that product by 365. In no event shall the earned charges, including acquisition cost, computed under this Contract exceed the disclosed finance charge.

(ii) *Late charge.* For any scheduled installment payment more than 15 days late (10 days late in the case of a heavy commercial vehicle), Seller may assess a late charge of 5% of such installment, or, in the alternative, Seller may charge interest after

maturity on any late installment payment at the rate of ___% per annum.

(D) *Model clause for interest after maturity: Interest after maturity.* All unpaid principal and earned charges and other amounts due and owing after final maturity of the Contract, whether by acceleration or otherwise, shall bear interest at ___% from the date of maturity until paid.

(7) *Model clause for required physical damage insurance:*
Figure 5: 7 TAC 1.407

(8) *Model clause for optional insurance coverages:*
Figure 6: 7 TAC 1.407

(9) *Model clause for liability insurance:* If liability insurance coverage is not included in the contract, then the following notice shall be printed in a size equal to at least ten-point type that is boldface, capitalized, underlined, or otherwise set out from surrounding written material so as to be conspicuous: "LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED IN THIS CONTRACT."

(10) *Model clause for optional credit life and accident and health (disability) insurance:*
Figure 7: 7 TAC 1.407

(11) *Model clause for agreement to keep vehicle insured: Agreement to keep vehicle insured.* Buyer agrees to keep the described vehicle insured in Seller's favor against loss or damage in accordance with the coverage requirements set out elsewhere in this Contract with a company authorized to transact business in Texas until all debts secured by this Contract have been paid and this security agreement is of no further effect. Buyer agrees to furnish reasonable evidence of such insurance coverage to Seller throughout such period. If Buyer fails to maintain insurance as agreed, or if any required insurance is canceled or expires, and is not or cannot be obtained by Buyer, Seller may hold Buyer in default or, at Seller's option, Seller, as Buyer's attorney-in-fact, may purchase insurance protecting Buyer and Seller, or either, and apply the included costs or any premium refund received by Seller. At Seller's option, Seller may add the additional premium for the insurance to the unpaid balance of this Contract. The rate of time price differential previously agreed to in the Contract shall be applied to the new unpaid balance, or the Contract may be rescheduled without reclassifying the motor vehicle by its year model at the time of rescheduling. If Seller adds an insurance premium to the unpaid balance of this Contract and/or reschedules the Contract to provide for its payment, Seller will send Buyer written notification of the action taken as required by law. If any such added insurance is written at a premium not fixed or approved by the Texas Department of Insurance, Buyer will be notified of that fact and for a period of ten days from the date of the mailing of the notice shall have the option of furnishing the required insurance coverages through any company authorized to transact business in Texas. If the insurance is canceled, adjusted, or terminated for any reason, the refund for unearned insurance premiums received by the Seller or the holder of this Contract shall, at the Seller or holder's option, be applied to replace required insurance coverages, or be credited to the final maturing installments of the Contract, and the remaining balance of the unearned insurance premiums shall be refunded to the buyer provided that all debts secured by this Contract have been paid and this security agreement

is of no further effect. No cash refund shall be required if the amount thereof is less than One Dollar.

(12) *Model clause for consumer credit commissioner notice:* To contact (insert name of seller or holder as appropriate) about this account, call (insert appropriate telephone number). This contract is subject in whole or in part to Texas law which is enforced by the Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207. Phone (insert the commissioner's Austin local exchange telephone number and any telephone number that provides toll free calling to the commissioner's office from the trade area in which the seller is located.) Contact the commissioner relative to any inquiries or complaints.

(13) *Model clause for documentary fee:* The following notice shall be printed in a size equal to at least ten-point type that is boldface, capitalized, underlined, or otherwise set out from surrounding written material so as to be conspicuous: A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. A DOCUMENTARY FEE MAY NOT EXCEED \$50. THIS NOTICE IS REQUIRED BY LAW. UN HONORARIO DE DOCUMENTACION NO ES UN HONORARIO OFICIAL. UN HONORARIO DE DOCUMENTACION NO ES REQUERIDO POR LA LEY, PERO PUEDE SER CARGADO AL COMPRADOR COMO GASTOS DE MANEJO DE DOCUMENTOS Y PARA REALIZAR SERVICIOS RELACIONADOS CON EL CIERRE DE UNA VENTA. UN HONORARIO DE DOCUMENTACION NO PUEDE EXCEDER \$50. ESTA NOTIFICACION ES REQUERIDA POR LA LEY.

(14) *Model clause for security agreement: Security interest in vehicle.* For the purpose of securing payment of the amount financed, Buyer grants Seller a security interest in the described vehicle as well as in all accessions thereto, and in any proceeds therefrom, until all debts secured by this Contract have been paid and this security agreement is of no further effect. Buyer may not sell, lease, pledge, or otherwise dispose of the described vehicle without Seller's prior written consent. With Seller's written consent, Buyer may transfer Buyer's equity in the motor vehicle, but in that event the holder of this Contract shall be entitled to a transfer of equity fee not exceeding \$25 (\$50 in the case of a heavy commercial vehicle)."

(15) *Model clause for deferment of scheduled installment:* Buyer and Seller may agree to defer any installment and Seller may charge and collect on the amount deferred for the period deferred a charge computed at the equivalent contract rate.

(16) *Model clause for default and repossession provisions: Default and repossession.* In the event Buyer is in default on the performance of any of Buyer's obligations under this Contract, or if Seller in good faith believes the prospect of payment or performance of this Contract is impaired, Seller shall have the right to declare the unpaid principal balance, together with any earned time price differential (FINANCE CHARGE) and any other earned charges or amounts for which Buyer may be obligated to Seller, immediately due and payable, subject to any refunds that may be due Buyer. In the event Seller exercises such right, Seller may proceed to enforce payment of the just described amounts, and Seller shall have all the rights and remedies provided by the Texas Business & Commerce Code for secured parties, including the right, without notice or legal action, to enter lawfully and without breach of the peace any premises

where the described vehicle may be found and to lawfully and without breach of the peace take possession of the vehicle, including any equipment or accessories thereon. Seller shall also be entitled to take possession of any personal property not subject to a security interest found in or on the described vehicle that is acquired in the repossession of the vehicle and hold the unsecured property for Buyer, provided Seller, within fifteen days of Seller's discovery of such property, sends written notice to Buyer at Buyer's last known address as shown by the records of Seller, which notice states that Buyer may identify and claim such property at a specified location at specified reasonable times within 30 days following the date of mailing or delivery of such notice. If the unsecured property is not claimed by Buyer within that period of time, it will be disposed of in a commercially reasonable manner and any proceeds of such disposition shall be distributed according to applicable law. In the event of repossession of the described vehicle, Seller will give Buyer reasonable notice of the time and place of any public sale or of the date after which any private sale may be held or any other intended disposition thereof is to be made. Notice given ten days before the time of sale or disposition shall constitute reasonable notice. Buyer agrees that in the event of repossession, sequestration, or other action necessary to secure possession of the described vehicle to pay the actual and reasonable out-of-pocket expenses incurred in connection with such repossession or foreclosure, including cost of storing, reconditioning, and reselling such motor vehicle, subject to the standards of good faith and commercial reasonableness set by the Texas Business and Commerce Code. If this Contract is referred for collection to an attorney not a salaried employee of the Seller, Buyer agrees to pay a reasonable attorney's fee, court costs, and disbursements.

(17) *Model clause for assignment and negotiation of retail installment contract: Assignment and negotiation of contract.* In the event of Seller's assignment and negotiation of this Contract, the term Seller shall include any Holder of this Contract under an assignment and negotiation and the Holder shall be entitled to all the responsibilities, rights, privileges, and remedies granted in this Contract to Seller. No transfer, assignment, renewal or extension of this Contract, and no loss, damage, or destruction of the described vehicle (except any caused by Seller, manufacturer, or any assignee of this Contract) shall release Buyer from Buyer's obligation under this Contract.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 19, 1996.

TRD-9613740

Leslie L. Pettijohn

Commissioner

Finance Commission of Texas

Earliest possible date of adoption: November 1, 1996

For further information, please call: (512) 479-1281

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

16 TAC §3.26, §3.27

The Railroad Commission of Texas proposes amendments to §3.26, concerning separating devices and tanks, and §3.27, concerning gas to be measured. The amendments are proposed to conform the sections to Texas Natural Resources Code §85.046(c), as amended, and clarify existing provisions regarding administrative approval of surface commingling of oil and gas. The proposed amendments authorize the commission, after notice and an opportunity for affected parties to request a hearing, to approve surface commingling of produced hydrocarbons.

The proposed amendments delineate the procedures for seeking approval of surface commingling when an application for surface commingling is protested, and for seeking administrative approval when an application is unprotested. Administrative approval is authorized when notice has been given to all working interest and royalty interest owners, no protest to the proposed commingling has been received by the commission, and the commission finds that surface commingling will prevent waste, promote conservation or protect correlative rights. The amendments set out the requirements for a reasonable allocation of commingled hydrocarbons among royalty and working interests. The proposed amendments also clarify existing commission procedures concerning circumstances in which the commission may authorize surface commingling administratively.

The proposed language in §3.26(b), concerning procedures for approval of surface commingling of oil, was selected because it tracks the amendment to the underlying statute and concisely outlines the circumstances in which surface commingling applications may be administratively approved. The proposed amendments to this subsection simplify the existing text of the rule and clarify existing commission procedures regarding circumstances in which surface commingling may be administratively approved without notice or hearing. Section 3.27(e), concerning approval of surface commingling of gas, references and incorporates the procedures for approval of commingling set out in §3.26(b).

Amendments are proposed to the existing provisions in §3.27, relating to gas to be measured, to remove redundant and obsolete portions of the section. The proposed amendments also eliminate unnecessary measuring requirements by providing an exemption for *de minimis* gas releases and, in some circumstances, for wells producing less than 20 mcf per day.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the proposed rule amendments will be in effect, there will be no fiscal implications as a result of enforcing or administering them. There will be no fiscal implications for local government. There will be no cost of compliance with the proposed rule amendments for small businesses.

Colin K. Lineberry, hearings examiner in the Office of General Counsel, has determined that for each year of the first five years the sections, as proposed, will be in effect, the public benefit anticipated as a result of enforcing the sections will be a reduction of the regulatory burden by the removal of the requirement

that a hearing be held on certain unprotested surface commingling applications, as well as by clarification of existing procedures concerning when surface commingling of hydrocarbons may be approved administratively. The commission anticipates that there will be a beneficial effect on small businesses because formal hearings will no longer be required on unprotested applications, thus reducing the costs of obtaining exceptions to allow surface commingling. The commission anticipates that there will be a reduction in economic costs to persons who are required to comply with the proposed rules because of the reduction in the number of hearings and the clarification of existing procedures.

Comments may be submitted to Colin K. Lineberry, hearings examiner, Office of General Counsel - Oil and Gas Section, Railroad Commission of Texas, P. O. Box 12967, Austin, Texas 78711-2967. The deadline for filing comments is 30 days after publication in the *Texas Register*. Comments should refer to the docket numbers of these rulemaking proceedings, 20-0209522 (§3.26) and 20-0209569 (§3.27). For more information call Colin K. Lineberry at (512)463-7051.

The commission proposes the amendments pursuant to Texas Natural Resources Code, §§81.052, 85.046, 85.201, and 86.042, which authorize the commission to prevent waste of oil and gas and to protect correlative rights.

The following code sections are affected by this rule: §3.26 and §3.27 – Texas Natural Resources Code, §§81.052, 85.046, 85.201, and 86.042.

§3.26. Separating Devices , [and] Tanks, and Surface Commingling of Oil .

(a) Where oil and gas are found in the same stratum and it is impossible to separate one from the other, or when a well has been classified as a gas well and such gas well is not connected to a cycling plant and such well is being produced on a lease and the gas is utilized under Texas Natural Resources Code, §§86.181- 86.185, the operator shall install a separating device of approved type and sufficient capacity to separate the oil and liquid hydrocarbons from the gas. [, which]

(1) The separating device shall be kept in place as long as a necessity **therefor** [therefore] exists, and, after being installed, such device shall not be removed nor the use thereof discontinued without the consent of the commission.

(2) All oil and any other liquid hydrocarbons as and when produced shall be adequately measured according to the pipeline rules and regulations of the commission before the same leaves the lease from which they are produced.

(3) Sufficient tankage and separator capacity shall be provided by the producer to adequately take daily gauges of all oil and any other liquid hydrocarbons unless LACT equipment, installed and operated in accordance with the latest revision of American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 6.1 or another method approved by the commission or its delegate, is being used to effect custody transfer.

(b) **In order to prevent waste, to promote conservation or to protect correlative rights, the commission may approve surface commingling of oil, gas, or oil and gas production from two or more tracts of land producing from the same commission-**

designated reservoir or from one or more tracts of land producing from different commission-designated reservoirs as follows:

(1) **Administrative approval.** Upon written application, the commission may grant approval for surface commingling administratively when any one of the following conditions is met:

(A) The tracts or commission-designated reservoirs have identical working interest and royalty interest ownership in identical percentages and therefore there is no commingling of separate interests;

(B) Production from each tract or commission-designated reservoir is separately measured and therefore there is no commingling of separate interests; or

(C) When the tracts or commission-designated reservoirs do not have identical working interest and royalty interest ownership in identical percentages and the commission has not received a protest to an application within 21 days of notice of the application being mailed by the applicant to all working and royalty interest owners or, if publication is required, within 21 days of the date of last publication and the applicant provides:

(i) a method of allocating production to ensure the protection of correlative rights, in accordance with paragraph (3) of this subsection; and

(ii) an affidavit or other evidence that all working interest and royalty interest owners have been notified of the application by certified mail or have provided applicant with waivers of notice requirements, or

(iii) in the event the applicant is unable, after due diligence, to provide notice by certified mail to all working interest and royalty interest owners, a publisher's affidavit or other evidence that the commission's notice of application has been published once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which the tracts that are the subject of the application are located.

(2) **Request for hearing.** When the tracts or commission-designated reservoirs do not have identical working interest and royalty interest ownership in identical percentages and a person entitled to notice of the application has filed a protest to the application with the commission, the applicant may request a hearing on the application. The commission shall give notice of the hearing to all working interest and royalty interest owners. The commission may permit the commingling if the applicant demonstrates that the proposed commingling will protect the rights of all interest owners in accordance with paragraph (3) of this subsection and will prevent waste, promote conservation or protect correlative rights.

(3) **Reasonable allocation required.** The applicant must demonstrate to the commission or its designee that the proposed commingling of hydrocarbons will not harm the correlative rights of the working or royalty interest owners of any of the wells to be commingled. The method of allocation of production to individual interests must accurately attribute to each interest its fair share of aggregated production.

(A) In the absence of contrary information, such as indications of material fluctuations in the monthly production

volume of a well proposed for commingling, the commission will presume that allocation based on the production rate for each well as determined and reported to the commission by periodic well tests conducted in accordance with Statewide Rules 28, 52, 53, and 55 (16 TAC §§3.28, 3.52, 3.53, and 3.55) at the intervals provided in this section will accurately attribute to each interest its fair share of production without harm to correlative rights.

(i) For applications proposing to commingle production from wells which each have a daily production rate of 100 mcf of gas or less and 4 barrels or less of oil or condensate, the production rate for each well shall be measured by well tests conducted annually;

(ii) For applications proposing to commingle production from wells which each have a daily production rate of 250 mcf of gas or less and less than 10 barrels of oil or condensate, the production rate for each well shall be measured by well tests conducted semi-annually; and,

(iii) For applications proposing to commingle production from one or more wells having a daily production rate of more than 250 mcf of gas or 10 or more barrels of oil or condensate, the production rate for each well shall be measured by well test conducted quarterly.

(B) An applicant may test less frequently than the applicable minimum frequencies set out in subparagraph (A)(ii) and (iii) of this paragraph with the written consent of all royalty and working interest owners. Allocation of commingled production shall not be based on well tests conducted less frequently than annually.

(C) Nothing in this section prohibits allocations based on more frequent well tests than the minimums set out in subparagraph (A) of this paragraph or allocations based on a method other than periodic well tests if the commission or its designee determines that the alternative allocation method will insure a reasonable allocation of production as required by this paragraph.

[(b) If two or more tracts of land (regardless of whether or not the tracts are covered by the same original lease) have their working interests owned by the same parties, have their royalty interests owned by the same parties, and are located in such proximity to each other as to permit under practical operating conditions, the running of the oil from all of said tracts into common tankage, the production from said leases may be run into a common tank battery or batteries provided that a permit granted pursuant to an exception allowing the use of a common tank battery or batteries shall have first been obtained from the commission. Likewise, where two or more leases have been unitized by an agreement among the owners of the working interests therein and the owners of the royalty interests therein, a permit granted pursuant to an exception for the running of the production of these leases into common tankage may be secured where said leases are located in such proximity to each other as to permit, under practical operating conditions, the running of the oil from all said leases into common tankage, after the commission has been furnished a copy of such unitization agreement. The oil produced from the tracts described in this subsection shall be produced in the manner set out in subsection (a) of this section, but said measurements shall be taken in the aforementioned common tank battery or batteries, in which event the operator shall be required to mark such common

battery or batteries so as to show the particular tracts from which oil is being run therein.]

(c)-(d) (No change.)

§3.27. Gas to be Measured and Surface Commingling of Gas.

(a) All natural gas, **except casinghead gas**, produced from wells [completed in gas reservoirs] shall be **measured, with each completion being measured separately**, [accounted for by measurement] before **the gas** [the same] leaves the lease, [each completion to be metered separately,] and the producer shall report the volume produced from each completion to the commission. Exceptions to this provision may be granted by the commission upon [receipt of] written application.

(b) All natural gas produced from wells completed in an oil reservoir but not listed on the oil proration schedule shall be accounted for by measurement before the same leaves the lease, and the producer shall report the volume produced to the commission.]

(b)[(c)] All casinghead gas [produced from oil wells and] sold, processed for its gasoline content, used in a field other than that in which it is produced, or used in cycling or repressuring operations, shall be **measured** [accounted for by measurement] before **the gas** [the same] leaves the lease, and the producer shall report the volume produced to the commission. Exceptions to this provision may be granted by the commission upon [receipt of] written application.

(c) [(d)] All casinghead gas produced [from oil wells] in this state which is not covered by the provisions of subsection (b) [(c)] of this section, shall be **measured** [accounted for by measurement] or accurately estimated [by an accurate estimate] before the **gas** [same] leaves the lease **or is released into the air**, based on its use or on [its] periodic **tests** [test], and reported to the commission by the producer. The volume of **casinghead** gas produced by wells exempt from gas/oil ratio surveys must be estimated, based on general knowledge of the characteristics of the wells. [without the use of periodic test data. It is further provided that it shall not be necessary for a producer to report any casinghead gas produced from a marginal well that is exempt from gas/oil ratio survey if such gas is not sold or utilized off the lease.] Exceptions to this provision may be granted by the commission upon [receipt of] written application.

(d) **Releases and production of gas at a volume or daily flow rate, commonly referred to as "too small to measure" (TSTM), which, due to minute quantity, cannot be accurately determined or for which a determination of gas volume is not reasonably practical using routine oil and gas industry methods, practices, and techniques are exempt from compliance with this rule and are not required to be reported to the commission or charged against lease allowable production.**

(e) **In order to prevent waste, to promote conservation or to protect correlative rights, the commission may approve surface commingling of gas or oil and gas described in subsections (a), (b) or (c) of this section and produced from two or more tracts of land producing from the same commission-designated reservoir or from one or more tracts of land producing from different commission-designated reservoirs in accordance with §3.26(b) of this title (relating to separating devices, tanks, and surface commingling of oil).**

(f) [(e)] In reporting gas well production, the full-well stream gas **shall** [should] be reported and charged against each gas well for allowable purposes. All gas produced, **including all gas used on**

the lease or released into the air, must be reported regardless of its disposition[, including gas used on the lease for heaters, any other type of lease use, or gas vented from low pressure separators].

(g) [(f)] If gas is produced from a lease or other property covered by the coastal or inland waters of the state, the gas produced may, at the option of the operator, be measured on a shore or at a point removed from the lease or other property from which it was produced.

(h) [(g)] All natural hydrocarbon gas produced and utilized from wells completed in geothermal resource reservoirs shall be **measured** [accounted for by measurement] and allocated to each individual lease based on semiannual test conducted on full well stream lease production.

(i) [(h)] For purposes of this rule, **"measured"** ["measurement"] shall mean a determination of gas **volume** [volumes] in accordance with this rule and other rules of the commission, **including accurate estimates of unmetered gas volumes released into the air and reported to the commission.**

(j) [(i)] No meter or meter run used for measuring gas as required by this rule shall be equipped with a manifold which will allow gas flow to be diverted or bypassed around the metering element in any manner unless it is of the type listed in paragraphs (1) or (2) of this subsection:

(1) double chambered orifice meter fittings with proper meter manifolding to allow equalized pressure across the meter during servicing;

(2) double chambered or single chambered orifice meter fittings equipped with proper meter manifolding or other types of metering devices accompanied by one of the following types of meter inspection manifolds:

(A) a manifold with block valves on each end of the meter run and a single block valve in the manifold complete with provisions to seal and a continuously maintained seal record;

(B) an inspection manifold having block valves at each end of the meter run and two block valves in the manifold with a bleeder between the two and with one valve equipped with provisions to seal and continuously maintained seal records;

(C) a manifold equipped with block valves at each end of the meter run and one or more block valves in the manifold, when accompanied by a documented waiver from the owner or owners of at least 60% of the royalty interest and the owner or owners of at least 60% of the working interest of the lease from which the gas is produced.

(k) [(j)] Whenever sealing procedures are used to provide security in the meter inspection manifold systems, the seal records shall be maintained for at least three years at an appropriate office and made available for Railroad Commission inspection during normal working hours. At any time a seal is broken or replaced, a notation will be made on the orifice meter chart along with graphic representation of estimated gas flow during the time the meter is out of service.

[(k)] All gas meters used for measuring gas as required by this rule must be equipped so as to comply with one of the accepted methods set out in subsection (i) of this section by October 1, 1983.

Exceptions may be granted by the Director of the Oil and Gas Division upon showing of good cause.]

(l) All meter requirements apply to all meters which are used to measure lease production, including sales meters if sales meter volumes are allocated are allocated back to individual leases.

(m) **The commission may grant an exception to measurement requirements under subsections (a), (b) and (c) of this section upon the filing of an application establishing:**

(1) **the gas well or oil lease for which an exception is sought produces no more than 20 MCF of gas per day;**

(2) **an annual test of the production of the gas well or oil lease provides an accurate estimate of the daily rate of gas flow;**

(3) **the flow rate established in paragraph (2) of this subsection multiplied by the recorded duration determined by any device or means that accurately records the duration of production each month yields an accurate estimate of monthly production; and**

(4) **the operator of the pipeline connected to the gas well or oil lease concurs in writing with the application.**

(n) [(m)] Failure to comply with the provisions of this rule will result in severance of the producing well, lease, facility, or gas pipeline or other **appropriate** enforcement proceeding. [, depending upon the nature of the violation and the party at fault.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 17, 1996.

TRD-9613611

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 463-7008



TITLE 22. EXAMINING BOARDS

Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Chapter 141. Fitting and Dispensing of Hearing Instruments

22 TAC §141.6, §§141.19-141.22

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) with the approval of the Texas Board of Health (board) proposes an amendment to §141.6; and new §§141.19-141.22 concerning the fitting and dispensing of hearing instruments. The amendment and new §141.21 implements Family Code, Chapter 232 as added by Acts 1995, 74th Legislature Chapter 751, §85 (HB 433), which requires the committee to establish procedures for suspension and reinstatement of a license for non-payment of child support.

The new sections on administrative penalties and code of ethics implements Texas Civil Statutes, Article 4566-1.01 et seq. The new section on informal disposition implements §2001.056 of the Administrative Procedure Act.

Bernie Underwood, C.P.A., Chief of Staff, Associateship for Health Care Quality and Standards, has determined that for the first five-year period the sections will be in effect, there will be fiscal implications as a result of administering and enforcing the sections as proposed. However, the fiscal implications for state government are anticipated to be negligible. The cost and process of administering the program will be offset by revenues generated from fees. There will be no fiscal implications for local government.

Ms. Underwood also has determined that for each year of the first five years the sections are in effect, the public benefits anticipated as a result of enforcing or administering the sections will be continued protection of the health, safety, and welfare of the citizens of Texas from the harmful effects of fitters and dispensers of hearing instruments by unskilled or unprincipled practitioners. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated impact on local employment.

Comments on the proposal may be submitted to Bobby D. Schmidt, Executive Director, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-6784. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The amendment and new sections are proposed under Texas Civil Statutes, Article 4566-1.01 et seq., (Act) Family Code, Chapter 232 as added by Acts 1995, 74th Legislature Chapter 751, §85 (HB 433), and the Administrative Procedure Act, Texas Government Code, Section 2001.056.

The cross reference is: Texas Civil Statutes, Article 4566-1.01 et. seq.

§141.6. Application Procedures.

(a)-(d) (No change.)

(e) The fees for administering Texas Civil Statutes, Article 4566-1.01 et. seq. (Act), and this chapter shall be as follows:

(1)-(4) (No change.)

(5) licensure renewal fee - \$200; [and]

(6) duplicate document fee - \$25; and

(7) **reinstatement fee for a license that was suspended for failure to pay child support - \$50.**

§141.19. Administrative Penalties.

(a) The assessment of an administrative penalty is governed by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Act (Act), Texas Civil Statutes Article 4566-1.16 et seq.

(b) References in the Act to the "commissioner of health" or the "department" are references to the commissioner of health or his designee. The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) shall request that the

commissioner of health appoint the associate commissioner of health care quality and standards as his designee.

(c) References in the Act to a "hearing examiner designated by the department" are references to an administrative law judge from the department.

(d) A hearing to assess administrative penalties shall be governed by §141.18 of this title (relating to Formal Hearings).

(e) The subcommittee, with the approval of the committee and the Texas Board of Health (board) may impose a fine not to exceed \$250 plus costs for the first violation and not to exceed \$1,000 plus costs for each subsequent violation of the Act, and the rules adopted under the Act, on any person or entity described in the Act. The fine may be invoked as an alternative to any other disciplinary measure, except for probation, as set forth by the committee.

(f) The amount of an administrative penalty shall be based on the following criteria.

(1) The seriousness of a violation shall be categorized by one of the following severity levels:

(A) Level I - violations that have or had an adverse impact on the health or safety of a client (or former client, where applicable);

(B) Level II - violations that have or had the potential to cause an adverse impact on the health or safety of a client (or former client, where applicable) but did not actually have an adverse impact; or

(C) Level III - violations that have no or minor health or safety significance.

(2) The range of administrative penalties by severity levels are as follows:

(A) Level I - \$500 to \$1,000;

(B) Level II - \$250 to \$500; or

(C) Level III - no more than \$250.

(3) Subsequent violations in the same severity level for which an administrative penalty has previously been imposed shall be categorized at the next higher severity level.

(4) Adjustments to the range of an administrative penalty may be made for:

(A) prompt reporting;

(B) corrective action;

(C) compliance history; or

(D) multiple violations.

§141.20. Informal Disposition.

(a) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal settlement conference held to determine whether an agreed settlement order may be approved.

(b) If the executive director or the Complaints Committee of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) determines that the public interest might be served by attempting to resolve a complaint or contested case with an agreed order in lieu of a formal hearing, the provisions

of this chapter shall apply. A licensee or applicant may request an informal settlement conference; however, the decision to hold a conference shall be made by the executive director or the complaints subcommittee.

(c) An informal settlement conference shall be voluntary and shall not be a prerequisite to a formal hearing.

(d) The executive director shall decide upon the time, date and place of the settlement conference, and provide written notice to the licensee or applicant of the same. Notice shall be provided no less than ten days prior to the date of the conference by certified mail, return receipt requested, to the last known address of the licensee or applicant or by personal delivery. The ten days shall begin on the date of mailing or personal delivery. The licensee or applicant may waive the ten day notice requirement.

(e) A copy of the committee's rules concerning informal disposition shall be enclosed with the notice of the settlement conference. The notice shall inform the licensee or applicant of the following:

(1) the nature of the alleged violation;

(2) that the licensee or applicant may be represented by legal counsel;

(3) that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate;

(4) that committee members may be present;

(5) that the committee's legal counsel or a representative of the Office of the Attorney General will be present;

(6) that the licensee's or applicant's attendance and participation is voluntary;

(7) that the complainant and any client involved in the alleged violations may be present; and

(8) that the settlement conference will be canceled if the licensee or applicant notifies the executive director that he or she or his or her legal counsel will not attend.

(f) The notice of the settlement conference shall be sent by certified mail, return receipt requested, to the complainant at his or her last known address or personally delivered to the complainant. The complainant shall be informed that he or she may appear and testify or may submit a written statement for consideration at the settlement conference. The complainant shall be notified if the conference is canceled.

(g) Members of the complaint subcommittee may be present at a settlement conference.

(h) The settlement conference shall be informal and shall not follow the procedures established in this section for contested cases and formal hearings.

(i) The licensee or applicant, the licensee's or applicant's attorney, the committee members, the committee's legal counsel, the executive director, and the committee may question witnesses, make relevant statements, present statements of persons not in attendance and present such other evidence as may be appropriate.

(j) The committee's legal counsel or an attorney from the Office of the Attorney General shall attend each settlement confer-

ence. The committee members or executive director may call upon the attorney at any time for assistance in the settlement conference.

(k) The licensee shall be afforded the opportunity to make statements that are material and relevant.

(l) Access to the committee's investigative file may be prohibited or limited in accordance with the Public Information Act (Open Records Act), Government Code, Chapter 552, and the Administrative Procedure Act (APA), Government Code, Chapter 2001.

(m) At the discretion of the executive director or the committee members, a tape recording may be made of some or all of the settlement conference.

(n) The committee members or the executive director shall exclude from the settlement conference all persons except witnesses during their testimony, the licensee or applicant, the licensee's or applicant's attorney, and the committee staff.

(o) The complainant shall not be considered a party in the settlement conference but shall be given the opportunity to be heard if the complainant attends. Any written statement submitted by the complainant shall be reviewed at the conference.

(p) At the conclusion of the settlement conference, the committee members or executive director may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Act (Act). The committee member may also conclude that the committee lacks jurisdiction, conclude that a violation of the Act or this chapter has not been established, order that the investigation be closed, or refer the matter for further investigation.

(q) The licensee or applicant may either accept or reject the settlement recommendations at the conference. If the recommendations are accepted, an agreed settlement order shall be prepared by the committee office or the committee's legal counsel and forwarded to the licensee or applicant. The order shall contain agreed findings of fact and conclusions of law. The licensee or applicant shall execute the order and return the signed order to the committee office within ten days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction shall constitute rejection of the settlement recommendations.

(r) If the licensee or applicant rejects the proposed settlement, the matter shall be referred to the executive director for appropriate action.

(s) If the licensee or applicant signs and accepts the recommendations, the agreed order shall be submitted to the entire committee for its approval. Placement of the agreed order on the committee agenda shall constitute only a recommendation for approval by the committee.

(t) The identity of the licensee or applicant shall not be made available to the committee until after the committee has reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the committee meeting. The licensee or applicant shall be notified of the date, time, and place of the committee meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant shall be voluntary.

(u) Upon an affirmative majority vote, the committee shall enter an agreed order approving the accepted settlement recommendations. The committee may not change the terms of a proposed order and shall only approve or disapprove an agreed order if the licensee or applicant is present at the committee meeting and agrees to other terms proposed by the committee.

(v) If the committee does not approve a proposed agreed order, the licensee or applicant and the complainant shall be so informed. The matter shall be referred to the executive director for other appropriate action.

(w) A proposed agreed order is not effective until the full committee and the commissioner of health has approved the agreed order. The order shall then be effective in accordance with the APA.

(x) A licensee's opportunity for an informal conference under this section shall satisfy the requirement of the APA, Government Code, §2001.054(c).

(1) If the executive director and complaints subcommittee determines that an informal conference shall not be held, the executive director shall give written notice to the licensee or applicant of the facts or conduct alleged to warrant the intended disciplinary action and the licensee or applicant shall be given the opportunity to show, in writing and as described in the notice, compliance with all requirements of the Act and this section.

(2) The complainant shall be sent a copy of the written notice. The complainant shall be informed that he or she may also submit a written statement to the committee office.

§141.21. Suspension of License for Failure to Pay Child Support.

(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive director shall immediately determine if the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) has issued a license to the obligor named on the order, and, if a license has been issued:

(1) record the suspension of the license in the committee's records;

(2) report the suspension as appropriate; and

(3) demand surrender of the suspended license.

(b) The committee shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The committee will provide notice as appropriate to the licensee or to others concerned with the license.

(c) The committee may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.

(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the committee.

(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the standard renewal procedures in State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Act, Texas Civil Statutes Article 4566-1.13, and §141.13 of this title (relating to Re-

newal of License). However, the license will not be renewed until the requirements of subsections (g) and (h) of this section are met.

(f) An individual who continues to use the titles "licensed fitter and dispenser", "apprentice in fitting and dispensing", or "temporary training permit holder in fitting and dispensing" after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the committee.

(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.

(h) The individual must pay a reinstatement fee as set out at §141.6(e)(7) of this title (relating to Application Procedures) prior to issuance of the license under subsection (g) of this section.

§141.22. Code of Ethics.

(a) The purpose of this section is to establish the standards of professional and ethical conduct required of a licensee or permit holder under the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Act (Act), Texas Civil Statutes, Article 4566-1.01 et seq., and constitutes a code of ethics as authorized by the Act. It is responsibility of all dispensers, fitters, and apprentice licensees covered under the Act to uphold the highest standards of integrity and ethical principles.

(b) A licensee of hearing instruments must observe and comply with the code of ethics and standards of practice set forth in this chapter. Any violation of the code of ethics or standards of practice will constitute unethical conduct or conduct that discredits the profession of the dispensing and fitting of hearing instruments and is grounds for disciplinary action.

(1) A licensee shall not refuse to do or perform any act or service for which the person is licensed solely on the basis of a client's age, gender, race, color, religion, national origin, or disability.

(2) A licensee shall not misrepresent his or her professional credentials and/or qualifications.

(3) A licensee shall offer only those services that are within his or her professional competency.

(4) A licensee shall comply with client confidentiality rights within the limits established by the law.

(5) A licensee shall not engage in any explorative or sexual act with a client.

(6) A licensee shall refrain from providing service while impaired due to the use of medication, drugs or alcohol or, physical or mental health condition.

(7) A licensee shall refer a client for those services that they are unable to meet.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613638

Susan K. Steeg

General Counsel

Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 458-7236

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Fair Hearing Procedures

25 TAC §§1.51-1.55

The Texas Department of Health (TDH) proposes amendments to §§1.51 - 1.55, concerning fair hearing procedures. Specifically, the sections cover purpose and scope, notice, preliminary matters, conduct of the hearing, and the hearing decision. The sections set forth the hearing procedures and practices for hearings not required to be conducted under the Administrative Procedure Act, Government Code, Chapter 2001 (APA). The sections establish the requirements for notice letters, requests for hearings, representation of an affected person, assignment of a hearing examiner, notification of the hearing, discovery, location of the hearing, evidence and procedure, dismissal of the hearing, testimony, burden of proof, and recording. The amendments clarify the basis for a decision; the contents of the record; who makes a final decision or recommendation for final decision; the basis for making the final decision; requirements for record of the hearing; and the procedures for notifying the affected person of the decision.

Susan K. Steeg, General Counsel, has determined that for the first five-year period the sections are in effect there will be no additional fiscal implications to state or local government as a result of enforcing or administering the section as proposed.

Ms. Steeg also has determined that for the first five-years the sections are in effect the public benefit anticipated as a result enforcing or administering of the sections will be greater clarification of the procedures and elimination of conflicts with other regulations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There will be no anticipated effect on local employment.

Comments on the proposed amendments may be submitted to Susan K. Steeg, General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7236. Comments will be accepted for a period of 30 days after the publication of the proposed amendments in the *Texas Register*.

The amendments are proposed under Texas Health and Safety Code, Chapter 12 which requires the department to establish rules for procedures regarding duties imposed by law on the department.

The amendments affect Texas Health and Safety Code, Chapter 12.

§1.51. Purpose and Scope.

(a) Purpose. Various federal and state [public health] statutes or regulations require the Texas Department of Health (department) [Texas Board of Health, through rulemaking,] to establish procedures for conducting fair [due process] hearings in connection with various programs administered by the department. These hearings are not required to be conducted under the provisions of the Administrative Procedure Act, Government Code, Chapter 2001 (APA). [These statutes say that the contested case provisions in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, ss 12-20, do not apply to the denial, suspension, or termination of department services provided under these statutes.] Rather [Instead], the department shall conduct fair [due process] hearings in accordance with rules adopted by the Texas Board of Health.

(b) Scope.

(1) These sections establish fair [the due process] hearing procedures which the department will follow when the department is required to conduct a fair hearing by federal or state statutes, rules or regulations, or when a statute or regulation does not specify that a contested case be heard under the APA [proposes to deny, suspend, or terminate services under any one of the public health statutes described in subsection (a) of this section.] Specifically, the sections cover the opportunity for a hearing, the hearing notice, the hearing procedure and the decision-making process.

(2) These procedures apply to fair hearings for:

- (A) the County Indigent Health Care Program;
- (B) the Chronically Ill and Disabled Children's Services Program;
- (C) the Waiver Program for Medically Dependent Children;
- (D) the Kidney Health Care;
- (E) the Lead-Based Paint Certification Program;
- (F) participation in the Women, Infant, and Children (WIC) Program;
- (G) client appeals in the medical assistance program administered by the department; and
- (H) any other program hearing not required to be a contested case hearing under the provisions of the APA.

§1.52. Notice [Opportunity for a Hearing].

(a) Department notice. Prior to making a final decision adverse to an affected person, [to deny, suspend, or terminate services,] the appropriate department program shall give the affected person [a] written notice of an opportunity for a hearing on the proposed action. The notice shall contain: [specify the proposed action, the basis for the action, and the opportunity for the affected person to request a hearing on the proposed action.]

- (1) a statement of the action the department intends to take;
- (2) an explanation of the reasons for the action the department intends to take;
- (3) a reference to the statutory and regulatory authority supporting the intended action;

(4) an explanation of the affected person's right to request a hearing; and

(5) the procedure by which an affected person may request a hearing.

(b) Request for hearing. In the absence of a specific department program rule or federal regulation to the contrary, the affected [The] person has 20 days after receiving the notice to request a hearing on the proposed action. A request [All requests] for a hearing [hearings] shall be made in writing and mailed or hand-delivered to the appropriate department program, unless the notice letter specifies an alternative method. If a [the] person who is offered the opportunity for a hearing does not request a hearing within the prescribed time for making such a request [one with the 20-day period], the person is deemed to have waived the hearing and the action may be taken .

(c) Representation. An affected person may represent himself or herself or may be represented by legal counsel, a relative, a friend, or another spokesperson.

§1.53. Preliminary Matters [Notice of the Hearing].

(a) Assignment of hearing examiner. When a department program receives a timely [written] request for a hearing, the program shall within ten days after receipt, forward such request, along with other pertinent documentation relating to such request, to the Office of General Counsel for the purpose of docketing, assignment of a representative of the program, and assignment of [to appoint] a hearing examiner to conduct the hearing. Neither the hearing examiner nor the program representative need be an attorney.

(b) Notification of hearing. The hearing examiner shall, not less than ten days prior to the date of the hearing, send a written notification [notice] of the hearing to the affected person who has requested the hearing. The notification [notice] shall contain [the following:]

[(1)] the basis of the proposed action; [and]

[(2)] the time, date, and place of the hearing ; [.] and a statement that the affected person may request the fair hearing be conducted based on written information contained in the program file and any additional written information the person may wish to submit, without the necessity of taking oral testimony.

(c) Discovery. The affected person shall be given the opportunity to examine the case file, claim file and any other documents or records the program intends to use at the fair hearing at a reasonable time before and during the hearing. There shall be no other discovery.

(d) Location of hearing. Hearings will be held in Austin, unless the hearing examiner determines that [a hardship or extenuating] circumstances exist which justify that the hearing be held in another location. A fair hearing may be conducted through telecommunications on order of the hearing examiner.

(e) Privileges, evidence and procedure. Only the rules contained in this undesignated head apply to fair hearings. Any party to a fair hearing is not required to disclose communications between a lawyer and client, a husband and wife, a clergy-person and a person seeking spiritual advice, or the name of an informant.

(f) The hearing may be conducted based on the written information contained in the program files and additional written information submitted to the hearing examiner and the other party not less than three days prior to the hearing without the necessity of taking oral testimony.

(g) Dismissal of hearing. The hearing examiner shall deny or dismiss a request for a fair hearing and the proposed action may be taken if the affected person withdraws the request in writing or fails to appear at the scheduled hearing without good cause.

§1.54. Conduct of the Hearing.

(a) **Testimony.** [Since this is not a hearing under the contested case provisions of the Administrative Procedure and Texas Register Act, technical rules of evidence need not apply. However, the] **The affected person shall** [requesting the hearing will] have the opportunity to refute the basis of the proposed action, to offer verbal and written testimony in the person's behalf, and to question **any witnesses or** appropriate department program representatives about the proposed action. **The affected person may bring witnesses.**

(b) **Burden of proof.** The department program bears the **burden of proof in a fair hearing, unless otherwise specified in a department rule.** [The person may represent himself or herself or be represented by council or another representative.]

(c) **Recording.** The hearing examiner will make a record of the proceeding, either through a tape recording or a court reporter. **The cost of a court reporter will be borne by the person who requests that a court reporter be present.** [If the person requesting the hearing requests that a court reporter be present, the department may assess the cost of the court reporter to the requester].

§1.55. The Hearing Decision.

(a) **Basis for decision.** A decision made following a fair hearing shall be based exclusively on the evidence introduced at the hearing from the documents submitted by the affected person and the department if no oral testimony is taken. **Otherwise, a decision shall be based on the record of the hearing. The hearing examiner may have the delegated authority to make a final decision.** [The hearing examiner, upon completion of the hearing, will prepare a written recommendation for decision, including the reasons for it. The recommendation will be provided to the parties, who may file exceptions. The recommendation, and exceptions, if any, shall be submitted to the commissioner of health, or his/her designee, for final decision. The final decision shall be made as soon as possible, not to exceed 60 days from the date of the close of hearing.]

(b) **Record.** The record of the hearing shall consist of the transcript or recording of the testimony; the exhibits, documents and requests filed in the proceeding; the recommendation of the hearing examiner, if applicable; and the decision.

(c) **The decision.**

(1) The hearing examiner may render a final decision if the commissioner of health has delegated such authority.

(2) If a hearing examiner has not been delegated authority from the commissioner of health to render a final decision, the hearing examiner shall prepare a recommendation for decision and provide it to the parties to a hearing. The parties to a hearing may provide to the hearing examiner a

response to the recommendation. The recommendation and any responses shall be submitted to the commissioner of health or commissioner's designee for final decision.

(3) Each decision shall summarize the testimony and evidence, decide the facts, and identify evidence and regulations supporting the decision. The decision need not include separately stated findings of fact and conclusions of law.

(d) **Notification of decision.** Unless otherwise specified in applicable regulations, the decision shall be made as soon as practicable, but no later than 60 days from the date of the close of hearing, unless such date is extended for good cause as determined by the hearing examiner. **The affected person shall be sent the final decision by first class mail within ten days of the date the decision is rendered.**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613583

Susan K. Steeg

General Counsel

Texas Department of Health

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 458-7236



Chapter 97. Communicable Disease

Control of Communicable Diseases

25 TAC §§97.1-97.5

The Texas Department of Health (department) proposes amendments to §§97.1-97.5, concerning control of communicable diseases. Specifically the sections cover definitions, what to report, when to report, who shall report, and where to report.

Significant revisions to §§97.1-97.5 concern the reporting of antibiotic resistant bacteria. The optimism of the antibiotic era that began 50 years ago is waning. Even before the widespread use of penicillin in the late 1940s, resistance was detected in both gram-positive and gram-negative organisms. Within one year of methicillin's introduction in 1960, methicillin resistant strains of *Staphylococcus aureus* emerged. In recent years drug-resistant *Streptococcus pneumoniae*, which accounts for 3,000 cases of meningitis and 7,000,000 cases of otitis media nationwide annually, has been recognized. Now with the emergence of vancomycin resistant *Enterococcus*, for which there is no antibiotic therapy, and the potential for vancomycin resistant *S. aureus*, the need for determining the incidence of invasive *S. aureus*, *S. pneumoniae*, and *Enterococcus* sp. and the percentage of resistant isolates has become urgent. A first step toward curtailing the pernicious progression of antibiotic resistance involves increasing the medical community's awareness of the problem. This is best accomplished by providing health care providers with timely surveillance data detailing the incidence of resistant organisms in their communities.

Michael F. Kelley, M.D., M.P.H., Chief, Bureau of Communicable Disease Control, has determined that for the first five-year period the proposed sections are in effect, there will be no increased costs to state government or local government as a result of enforcing or administering the section as proposed.

Doctor Kelley also has determined that for each year of the first five years that the sections are in effect the public benefit will be that healthcare providers will have knowledge of antibiotic resistance trends in their communities for these pathogens; this knowledge will help the physicians to use antibiotics in the most judicious fashion. The cost to large businesses required to comply with these sections, i.e. hospitals and freestanding laboratories, will be \$15 or less per month per institution. There will be no cost to small business. There will be no cost to any other persons. There will be no impact on local employment.

Comments on the proposed sections may be sent to Kate Hendricks, M.D., M.P.H. & T.M., Director, Infectious Disease Epidemiology and Surveillance Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7328. Doctor Hendricks will accept comments for 30 days after publication in the *Texas Register*.

The amendments are proposed under the Health and Safety Code, Chapter 81, which provides the Board of Health (board) with the authority to prevent and control communicable disease; and §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

The amendments affect Health and Safety Code, §12.001, §81.042, §81.044, §81.081 through §81.094.

§97.1. Definitions.

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Reportable disease-Any disease or condition that is required to be reported under the Act or by these sections. See §97.3 of this title (relating to **What Condition to Report and What Isolates to Submit**). Any outbreak, exotic disease, or unusual group expression of illness which may be of public health concern, whether or not the disease involved is listed in §97.3 of this title, shall be considered a "reportable disease."

Specimen Submission Form G-1 -A multipurpose specimen submission form available from the Texas Department of Health, Bureau of Laboratories, 1100 West 49th Street, Austin, Texas, 78756-3199.

§97.2. Who Shall Report.

(a)-(b) (No change.)

(c) Except as provided in subsection (b) of this section, any person who is in charge of a clinical laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields **microscopic**[microscopical], **culture**[cultural], **serologic** [serological], or other evidence of a reportable disease, [or] health condition, **or bacterial organism** shall report as required by this section.

(d)-(g) (No change.)

§97.3. What Condition to Report and What Isolates to Submit.

(a) (No change.)

(b) Reportable conditions.

(1) Confirmed and suspected cases of the following diseases are reportable: acquired immune deficiency syndrome (AIDS); amebiasis; anthrax; botulism - adult and infant; brucellosis; campylobacteriosis; chancroid; chickenpox; *Chlamydia trachomatis* infection; cholera; cryptosporidiosis; dengue; diphtheria; ehrlichiosis; encephalitis (specify etiology); *Escherichia coli* O157:H7 infection; gonorrhea; Hansen's disease (leprosy); *Haemophilus influenzae* type b infection, invasive; hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis, acute viral (specify type); human immunodeficiency virus (HIV) infection; legionellosis; listeriosis; Lyme disease; malaria; measles (**rubeola** [Rubeola]); meningitis (specify type); meningococcal infection, invasive; mumps; pertussis; plague; poliomyelitis, acute paralytic; rabies in man; relapsing fever; Rocky Mountain spotted fever; rubella (including congenital); salmonellosis, including typhoid fever; shigellosis; streptococcal disease, invasive **group**[Group] A; syphilis; tetanus; trichinosis; tuberculosis; tuberculosis infection in persons less than 15 years of age; typhus; *Vibrio* infection (**specify species**); viral hemorrhagic fevers; and yellow fever.

(2) (No change.)

(3) **Isolates of the following organisms shall be reported: *Enterococcus* species, vancomycin resistant *Enterococcus* species; *Staphylococcus aureus*, vancomycin resistant *Staphylococcus aureus*; *Streptococcus pneumoniae*, and drug resistant *Streptococcus pneumoniae*.**

(c) Minimal reportable information requirements. The minimal information that shall be reported for each disease is as follows:

(1)-(3) (No change.)

(4) for tuberculosis - name, city, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, and antibiotic susceptibility results; [and]

(5) for all other reportable conditions listed in subsection (b)(1) of this section - name, city, age, date of birth, sex, race and ethnicity, physician, disease, type of diagnosis, date of onset, address, and telephone number;[.]

(6) **for *Enterococcus* species, *Staphylococcus aureus*, and *Streptococcus pneumoniae*, regardless of resistance patterns - monthly numeric totals; and**

(7) **for vancomycin resistant *Enterococcus* species; vancomycin resistant *Staphylococcus aureus*; and drug resistant *Streptococcus pneumoniae* - name, city, date of birth or age, sex, anatomic site of culture, date of culture, and minimum inhibitory concentration (MIC) results for antibiotics to which the organism is resistant.**

(d) **Diseases requiring submission of pure cultures. For all *Neisseria meningitidis* from normally sterile sites, all vancomycin resistant *Staphylococcus aureus*, and all vancomycin resistant *Enterococcus* species pure cultures shall be submitted accompanied by a Specimen Submission Form G-1.**

§97.4. When to Report a Condition or Submit an Isolate.

(a) The following reportable diseases are public health emergencies and suspect cases shall be reported immediately **by phone** to the local health authority or the regional director of the Texas De-

partment of Health (department): botulism, foodborne; cholera; diphtheria; *Haemophilus influenzae* type b infection, invasive; measles (*rubeola* [Rubeola]); meningococcal infection, invasive; pertussis; poliomyelitis, acute paralytic; plague; rabies in man; viral hemorrhagic fevers; and yellow fever.

(b)-(f) (No change.)

(g) For *Enterococcus* species; vancomycin resistant *Enterococcus* species; *Staphylococcus aureus*; vancomycin resistant *Staphylococcus aureus*; and drug resistant *Streptococcus pneumoniae* - reports shall be made no later than one week after the last working day of each month.

(h) Pure cultures of all *Neisseria meningitidis* from normally sterile sites and all vancomycin resistant *Staphylococcus aureus* shall be submitted to the Texas Department of Health, Bureau of Laboratories as they become available.

(i) Pure cultures of vancomycin resistant *Enterococcus* species shall be submitted to the Texas Department of Health, Bureau of Laboratories no later than one week after the last working day of each month.

§97.5. Where to Report a Condition or Submit an Isolate.

(a) (No change.)

(b) The administrative officer of a clinical laboratory, blood bank, mobile unit, or other facility shall report a condition or submit an isolate as follows.

(1)-(2) (No change.)

(3) For *Enterococcus* species; vancomycin resistant *Enterococcus* species; *Staphylococcus aureus*; vancomycin resistant *Staphylococcus aureus*; *Streptococcus pneumoniae*; and drug resistant *Streptococcus pneumoniae*; reports shall be mailed to the Infectious Disease Epidemiology and Surveillance Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, or faxed to the Infectious Disease Epidemiology and Surveillance Division at 512-458-7616.

(4) Pure cultures of *Neisseria meningitidis* from normally sterile sites, vancomycin resistant *Enterococcus*, and vancomycin resistant *Staphylococcus aureus* shall be submitted to the Texas Department of Health, Bureau of Laboratories, 1100 West 49th Street, Austin, Texas, 78756-3199.

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613637

Susan K. Steeg

General Counsel

Texas Department of Health

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 458-7236

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Chapter 99. Occupational Diseases Reporting

25 TAC §99.1

The Texas Department of Health (department) proposes an amendment to §99.1 concerning the reporting of adult elevated blood lead levels. The proposed amendment will reduce the blood lead reporting level from 40 micrograms of lead per deciliter of blood (40 µg/dL) to 25 µg/dL. This lower level is consistent with the level recommended by the Centers for Disease Control and Prevention's *Healthy People 2000: National Health Promotion and Disease Prevention Objectives*, and will allow the department to track progress on meeting the Healthy People 2000 objectives for Texas.

Over the past ten years, since this original rule was approved, it has become increasingly clear through scientific study that the adverse health effects of lead can be demonstrated at levels of exposure that at one time were considered "safe". Over this same period of time, levels of lead exposure at which adverse health effects are detected have become progressively lower. As a result of these scientific findings, lead levels of concern to public health agencies have also decreased.

In 1990, the Centers for Disease Control and Prevention compiled a document, *Healthy People 2000: National Health Promotion and Disease Prevention Objectives*, which contained a national strategy for improving the health of the Nation over the next decade by addressing major illnesses, injuries, and infectious diseases. One of these objectives (objective 10.8) is to "Eliminate exposures which result in workers having blood lead concentrations greater than 25 µg/dL of whole blood". Because the department's current reporting for elevated blood lead levels in adults is set at 40 µg/dL, the department is not able to determine if progress toward this Healthy People 2000 objective is being made in Texas.

Most other states are able to contribute important information regarding the progress toward this Healthy People 2000 objective. Currently, 44 states require reporting of adult blood lead levels. Four of these states, including Texas, require reporting adult blood lead levels of 40 µg/dL or greater. These four states, in addition to the six states who do not require reporting blood lead levels at all, are not able to evaluate progress toward the Healthy People 2000 objective. The majority of states, however, (40/50, 80%) are able to contribute important information toward evaluating the Healthy People 2000 progress. This includes 15 states (34% of states requiring reporting) that require reporting blood lead levels of is greater than or equal to 25 µg/dL, and 25 states have reporting levels set at less than 25 µg/dL, including 8 states (18%) that require reporting the results of all blood lead tests done, regardless of the level.

Patricia Schnitzer, Ph.D., Director, Environmental and Occupational Epidemiology Program, has determined that for the first five year period that the section is in effect there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

Ms. Schnitzer also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be improved knowledge of the prevalence of lead exposure in adults. There is no anticipated effect on small businesses. The economic costs to persons who are required to comply with the sections as proposed are expected to be minimal as the infrastructure

for reporting already exists. A minimal cost increase may result from an increased number of reports. There will be no impact on local employment.

Comments on the proposal may be submitted to Patricia Schnitzer, Ph.D., Director, Environmental and Occupational Epidemiology Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3180, (512) 458-7269. Comments will be accepted for 30 days from the date of publication of the proposed rules in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, Chapter 84 of the Health and Safety Code §84.003 which requires the board to adopt rules necessary to implement the reporting of elevated blood lead levels; and §12.001 which allows the board to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

The amendment will affect Chapter 84 (Chapter 931, 69th Legislature, 1985) of the Health and Safety Code.

§99.1. *General Provisions.*

(a)-(c) (No change.)

(d) List of reportable diseases. Diseases reportable by name, address, age, sex, race/ethnicity, method of diagnosis, and relevant occupation(s) and employer(s) of the case, and identity of the reporter, are: asbestosis, silicosis, blood lead levels at or above **25 micrograms lead/100 milliliter** [40 micrograms lead/100 milliliters] of blood in persons 15 years of age or older, and acute occupational pesticide poisoning.

(e)-(f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613636

Susan K. Steeg

General Counsel

Texas Department of Health

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 458-7236



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels Tax

34 TAC §3.180, §3.181

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin).

The Comptroller of Public Accounts proposes the repeal of §3.180 and §3.181, concerning signed statement for purchasing

diesel fuel tax free, and tax free purchase of diesel fuel not legally usable on public highways and roads. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The substance of the current §3.180 and §3.181 will be included in the new §3.180, concerning signed statements for purchasing diesel fuel tax free.

Mike Reissig, chief revenue estimator, has determined that repeal of the rules will not result in any fiscal implications to the state or to units of local government.

Mr. Reissig also has determined that there will be no cost or benefit to the public from the repeal of these rules. This repeal is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, §111.002.

§3.180. *Signed Statement for Purchasing Diesel Fuel Tax Free.*

§3.181. *Tax-free Purchase of Diesel Fuel Not Legally Usable on Public Highways and Roads.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613552

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 463-4062



34 TAC §3.180

The Comptroller of Public Accounts proposes new §3.180, concerning signed statements for purchasing diesel fuel tax free. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. Therefore, current §3.180, concerning signed statement for purchasing diesel fuel tax free, is being proposed for repeal. The new section consolidates the substance of the current §3.180 and §3.181, concerning tax-free purchase of diesel fuel not legally usable on public highways and roads.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §153.205.

§3.180. Signed Statements for Purchasing Diesel Fuel Tax Free.

(a) Purchaser does not own or operate diesel fuel-powered motor vehicles. Diesel fuel may be purchased tax free if it is for off-highway use and the buyer provides the seller with a signed statement herein adopted by reference. The number of gallons of diesel fuel purchased using a signed statement shall be determined by subsection (a)(2) of this section. Copies of the blank statements are available for inspection at the office of the *Texas Register* or may be obtained from the Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711. Copies may also be requested by calling our toll-free number 1-800-252-1383. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621.)

(1) The signed statement must specify that:

(A) the buyer does not operate diesel fuel-powered motor vehicles on Texas highways;

(B) all diesel fuel will be used by the buyer and will not be resold; and

(C) none of the diesel fuel will be delivered into tanks of motor vehicles licensed for highway use.

(2) Suppliers may sell diesel fuel tax free to buyers who furnish the signed statement if:

(A) the sale covering a single delivery is not more than 3,000 gallons; or

(B) sales during a calendar month do not exceed 10,000 gallons. The sale or delivery that causes the 10,000 gallon limit to be exceeded during a calendar month would not be a taxable sale. Any subsequent sale or delivery made during the same calendar month is taxable.

Figure: 34 TAC 3.180(2)(B)

(3) Separate corporate divisions may also use a signed statement if they:

(A) do not operate any diesel fuel-powered motor vehicles on Texas highways;

(B) do not resell the fuel;

(C) consume the fuel themselves; and

(D) maintain separate storage apart from other corporate divisions.

(4) The signed statement remains in effect until:

(A) it is revoked in writing by either buyer or seller;

(B) the comptroller notifies the supplier in writing that the buyer may no longer make tax-free purchases; or

(C) the supplier makes taxable sales of diesel fuel to a buyer, other than taxable sales required by subsection (a)(2) of this section, who has previously provided a signed statement. Taxable sales create a rebuttable presumption that the supplier had reasonable notice that all subsequent sales would be taxable.

(b) Purchaser may own or operate diesel fuel-powered motor vehicles. Diesel fuel that may not be legally used to operate a motor vehicle on the public highway in Texas (hereafter referred to as off-road diesel fuel) under state or federal law may be purchased tax free if the purchaser provides the permitted supplier with a signed statement, herein adopted by reference. The number of gallons of diesel fuel purchased using a signed statement shall be determined by subsection (b)(1) of this section. Copies of the blank statements are available for inspection at the office of the *Texas Register* or may be obtained from the Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711. Copies may also be requested by calling our toll-free number 1-800-252-1383. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621.)

(1) Beginning on October 1, 1995, permitted suppliers may sell off-road diesel fuel tax free to buyers who:

(A) operate one or more diesel fuel-powered motor vehicles on Texas highways and roads; and

(B) furnish the permitted supplier a signed statement if:

(i) the sale covering a single delivery is not more than 3,000 gallons; or

(ii) sales during a calendar month do not exceed 10,000 gallons. The sale or delivery that causes 10,000 gallon limit to be exceeded during a calendar month would not be a taxable sale. Any subsequent sale or delivery made during the same calendar month is taxable. See example in subsection (a)(2)(B) of this section.

(2) The signed statement must specify that:

(A) all off-road diesel fuel will be consumed by the buyer for purposes other than operating a motor vehicle on the public highway;

(B) none of the off-road diesel fuel purchased will be resold; and

(C) none of the off-road diesel fuel will be delivered into the fuel supply tanks of motor vehicles licensed for highway use.

(3) Separate corporate divisions may also use a signed statement if they:

(A) do not resell the fuel;

(B) consume the fuel themselves; and

(C) maintain separate storage apart from other corporate divisions.

(4) The signed statement remains in effect until:

(A) it is revoked in writing by either the buyer or seller; or

(B) the comptroller notifies the supplier in writing that the buyer may no longer make tax-free purchases.

(c) The signed statement must be signed by the buyer or the buyer's authorized representative.

(d) A permitted jobber may purchase off-road diesel fuel only for their own use with the use of a signed statement. A jobber may not accept a signed statement for the sale of tax-free diesel fuel.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613551

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 463-4062



34 TAC §3.191

(Editor's Note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin).

The Comptroller of Public Accounts proposes the repeal of §3.191, concerning gasoline and alcohol mixture credit. The rule is being repealed because the section of the law that it interpreted (Tax Code, §153.123) expired according to its own terms.

Mike Reissig, chief revenue estimator, has determined that repeal of the rule will not result in any fiscal implications to the state or to units of local government.

Mr. Reissig also has determined that there will be no cost or benefit to the public from the repeal of this rule. This repeal is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, §153.123.

§3.191. *Gasoline and Alcohol Mixture Credit.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613553

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 463-4062



Subchapter O. State Sales and Use Tax

34 TAc §3.304, §3.334

(Editor's Note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin).

The Comptroller of Public Accounts proposes the repeal of §3.304 and §3.334 concerning morticians and monument builders. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more efficient means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The substance of §3.304, concerning morticians, and §3.334, concerning monument builders will be included in new §3.304.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the repeals will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the rule will be in providing a more efficient means of obtaining information. These repeals are adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The repeals are proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.002.

§3.304. *Morticians.*

§3.334. *Monument Builders.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613547

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 28, 1996
For further information, please call: (512) 463-4062



34 TAC §3.304

The Comptroller of Public Accounts proposes new §3.304, concerning morticians and monument builders. The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more efficient means of obtaining information. The new section consolidates the substance of the current §3.304, concerning morticians with 34 TAC §3.334, concerning monument builders.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing a more efficient means of obtaining information. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.002.

§3.304. *Morticians and Monument Builders.*

(a) Morticians.

(1) The mortician is the consumer of all tangible personal property used, consumed, or furnished to the customer in rendering funeral services, regardless of whether or not is stated a separate charge for any such item. As the consumer, the mortician is required to pay the appropriate amount of tax at the time of purchase of all such tangible personal property used, consumed, or furnished in the performance of services.

(2) If a mortician sells caskets, boxes, vaults, or other individual items of tangible personal property separately from an agreement to render funeral services, the mortician becomes a retailer and is required to have a limited sales tax permit, and must collect and report the tax on the agreed price of all such tangible personal property sold. Resale certificates may be given in lieu of the tax at the time of purchase only on those individual items purchased for resale.

(b) Monument builders.

(1) Monument builders are contractors when they install memorials such as tombstones, vaults, and similar items. The provisions of §3.291 of this title (relating to Contractors) apply to their operations.

(2) When a monument builder sells a product and no installation is provided, the total charge for the product is taxable.

In this instance the monument builder is a manufacturer making a retail sale of the manufactured product.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613548

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 463-4062



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 18. Driver Education

Parent or Legal Guardian Taught Driver Education

37 TAC §§18.21–18.24

The Texas Department of Public Safety proposes new §§18.21–18.24 concerning parent or legal guardian-taught driver education. The new sections promulgate standards for parent-taught driver education, request for packets, classroom instruction, behind-the-wheel instruction, student requirements, and verification of course completion by minors.

Tom Haas, Chief of Finance, has determined that for each year of the first five years the sections are in effect there will be no significant fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Haas also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the reduced cost of driver education training for teenagers. It is possible Commercial Driving Schools will lose income because of the loss of students enrolling in their driver education training program. However, the department has no data on which to base this. The cost to persons who are required to comply with the sections as proposed will be the approximately \$20 cost of the Texas Education Agency Driver Education Instruction Curriculum Model.

Comments on the proposal may be submitted to John C. West, Jr., Chief of Legal Services, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001.

The new sections are proposed pursuant to Texas Civil Statutes, Article 6687b, §7A which provides the department by rule shall provide for approval of a driver training course given by the parent or legal guardian of a person who is required to complete successfully a driver training course to obtain a Class C license.

Texas Civil Statutes, Article 6687b, §7A is affected by this proposal.

§18.21. Obtaining Materials For Parent Taught Course.

(a) Request for a Driver Education Packet. Prior to teaching a department approved course, a parent or legal guardian must send a completed Request for Driver Education Packet form with a non-refundable fee which is set by the department to satisfy the cost of preparing the materials, shipping, and applicable taxes. The request will be sent to the General Services Bureau of the Texas Department of Public Safety. Upon receipt of the request, a Driver Education Packet will be mailed to the address given on the request form. This packet will contain the following:

- (1) instructions and procedures;
- (2) a Texas Driver License application (DL-14A);
- (3) two Parental Driver Education Affidavits;
- (4) a Student Instruction Record;
- (5) a Texas Drivers Handbook;
- (6) a model curriculum guide;
- (7) a resource list; and
- (8) a list of department approved programs.

(b) The applicant will be instructed to designate the local Driver License office where tests will be administered. A numbered Texas Driver Education Certificate, form DEA-964, will be forwarded to that office and will be available for the parent/instructor to complete the required sections upon completion of each phase of the training.

(c) THE PACKET SPECIFIED IN SUBSECTION (a) OF THIS SECTION DOES NOT CONTAIN ALL REQUIRED MATERIALS (i.e., TEXTBOOKS) NECESSARY TO PROVIDE THE DRIVER TRAINING COURSE. IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN TO OBTAIN THESE ITEMS AS NECESSARY. POSSIBLE SOURCES WILL INCLUDE SOMEONE ON THE RESOURCE LIST, AN EDUCATION SERVICE CENTER, OR A PUBLIC LIBRARY. ANY COSTS FOR THESE ADDITIONAL MATERIALS ARE THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN.

§18.22. Classroom Instruction.

(a) After obtaining all necessary materials, the 32 hours of classroom instruction required in the classroom phase of a driver training program may be taught either as an entire block prior to any portion of the laboratory phase or concurrently with the laboratory phase. If taught as part of the Concurrent Program, 6 hours of Unit II, "Traffic Laws," and Unit IV, "Driving Procedures," are required to be the first 6 hours of instruction and must be taught prior to the issuance of any instruction permit or providing any of the laboratory phase of the Driver Education Course.

(b) There are no requirements that the location used as a classroom have any particular characteristics or equipment. It is recommended that the location be comfortable and the atmosphere be conducive to the learning experience. A textbook approved by the Texas Education Agency for driver education is an integral part of driver training and is a required resource. No more than 2 hours of the required 32 clock hours of classroom instruction may be film or videotape. More may be used but may not be counted as part of the 32 clock hours.

(c) Texas law provides that an applicant must be at least 14 years of age to be eligible to take the classroom phase of a driver

training course. A driver training course will NOT be approved by the department if any portion of either the classroom phase or the laboratory phase was provided to an applicant younger than 14 years of age. The student must reach his fifteenth birthday before the classroom phase is completed. The student must be at least 15 years of age to be eligible for an instruction permit and must have the permit before taking any part of the laboratory phase of the course.

(d) Except as noted in subsection (c) of this section, the department approved course should be taught in sequential order. It is recommended that, if the Concurrent Program is used, the behind-the-wheel classes coincide with the related classroom instruction.

(e) Application for an Instruction Permit. An instruction permit must be obtained by the student PRIOR to beginning any portion of the behind-the-wheel phase of a driver training program. The department shall not issue any license, including an instruction permit, to any person who is under 15 years of age. The department may issue an instruction permit without photograph to any person 15 years of age or older but younger than 18 years of age who has:

(1) satisfactorily completed and passed the classroom phase of an approved driver training course;

(2) obtained a high school diploma or its equivalent; or is a student enrolled in a public, home, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of application; or has been enrolled for at least 45 days, and is currently enrolled in a program to prepare persons to pass the high school equivalency exam; and

(3) successfully passed all parts of the driver examination required in the Driver License Law other than the driving test.

(f) When a parent or legal guardian has taught the required hours of either the block or concurrent classroom phase of a driver education program, the parent or guardian and the applicant may make application for an instruction permit at the Driver License office indicated on the Request for Driver Education Packet form. When making application, the following items must be presented:

(1) a completed Texas Driver License Application (DL-14A) (included in packet);

(2) a completed and notarized Parental Driver Education Affidavit (included in packet);

(3) a fee of \$5.00;

(4) a high school diploma or its equivalent, or acceptable certification of high school/GED enrollment and attendance, Texas Education Agency (TEA) form GEA-043R93, or the equivalent;

(5) if previously licensed (including an instruction permit) in another state, the out-of-state license must be surrendered or a Department of Public Safety affidavit must be executed certifying the out of state license has been lost, stolen, or is expired;

(6) if the student owns a vehicle for which proof of financial responsibility is required, evidence of liability insurance must be presented;

(7) an original social security card or other acceptable proof of social security number;

(8) an original birth certificate or other acceptable proof of name, date of birth, and place of birth; and

(9) other information as required by the department.

(g) A Driver License Service employee will review the items presented. If these items are satisfactory, department personnel will provide the assigned DE-964 form for completion by the parent indicating that the student has completed the classroom phase of the course or is taking the course in the concurrent mode. The remaining portion of the form will be filed in the office until completion of the course. The student will pay the required application fee and be given the vision, Class C-Road Signs, and Class C-Road Rules tests. Documentation will be returned to the applicant. If the applicant passes the tests, an instruction permit will be issued. Applicants have three opportunities to pass each test or a maximum of ninety days to successfully pass all tests. Failure to do so will result in loss of the application fee. A new fee will then be required.

§18.23. Behind-the-Wheel Instruction.

(a) In-car instruction may be taught in any motor vehicle which may be legally operated with a Class C driver's license in Texas. The vehicle must have valid registration, have a currently valid motor vehicle inspection certificate, and be properly insured with proof of such liability insurance available in the vehicle. The vehicle is not required to have dual brakes but it is recommended that the vehicle have a second rear-view mirror for use of the instructor.

(b) After a student has received an instruction permit, a parent may begin in-car instruction. The curriculum must be followed and all required instruction given. Upon completion of all course material, classroom and behind-the-wheel, the parent/instructor should apply to the same Driver License office where the DE-964 form is filed. To obtain an unrestricted driver's license the student must have reached his sixteenth birthday and must provide the following at a Driver License office:

- (1) instruction permit or learner's license;
- (2) parental driver education affidavit;
- (3) complete student instruction record; and
- (4) TEA certificate of enrollment or equivalent.

(c) Upon acceptance of the above documentation, Driver License Service personnel will provide the form DE-964 for completion by the parent/instructor indicating successful completion of the course. The department copy and the TEA copy of the form will be surrendered to the department. The school copy and the insurance copy of the form will be given to the applicant. Once this is completed the student will be allowed to take the driving test administered by a Driver License Service employee. Upon successfully passing the driving test the "B" restriction will be removed.

§18.24. Completion of the Texas Driver Education Certificate.

(a) The Texas Driver Education Certificate, form DE-964, is a numbered, two-part form consisting of four copies and is used to certify completion of both classroom and laboratory phases of the driver education course. The certificate is sent to the Driver License office indicated on the Request for Driver Education Packet form. The Driver License office will file the certificate upon receipt for security purposes and will remain under control of the department. When a student successfully completes the required classroom hours of instruction, a Driver License Service employee will provide the proper certificate to the parent and will assist the parent in completing the bottom portion of the certificate, FOR INSTRUCTION PERMIT ONLY, at the Driver License office. The department copy will be

submitted with the driver's license application. The remainder of the certificate will be refiled at the Driver License office for later use. When the course is successfully completed, the remainder of the DE-964 will be used to certify the completion. The top portion of the certificate, FOR DRIVER'S LICENSE ONLY, will be completed and the department copy and the TEA copy of the certificate will be surrendered with all other documentation necessary for issuance of an unrestricted license. The insurance and school copies of the certificate will be given to the parent or guardian for their records.

(b) FOR INSTRUCTION PERMIT ONLY (bottom section of form). This portion of the form will be completed at the Driver License office for the issuance of an instruction permit. This is a tear-off form and only the department copy will be removed. When filling out the form, type or print firmly using black ink. Enter the following information:

- (1) check the box to indicate "Parent or Legal Guardian";
- (2) check the box to indicate "DPS-approved program" and write in the course number as indicated on the list of approved programs;
- (3) check the box to indicate "Must take vision, traffic law and traffic sign parts of the examination" (for DPS use);
- (4) enter the student's full, legal name as shown on the birth certificate or other legal document;
- (5) the parent or legal guardian will sign on the line "Signature of Driver Education Teacher";
- (6) enter the parent or guardian's driver's license number on the line "TEA Number";
- (7) enter "Home" on the line "School, ESC, College, or University";
- (8) leave blank the two lines which read "Signature () Chief School Official" and "Driver Education School Number"; and
- (9) enter the date on the line "Date Issued."

(c) FOR DRIVER'S LICENSE ONLY (top of form). This portion of the certificate will be completed after the complete course, classroom and laboratory, has been successfully completed. Enter the following information:

- (1) check the box to indicate "Parent or Legal Guardian";
- (2) check the box to indicate "7 hours behind-the-wheel instruction and 7 hours supervised practice";
- (3) enter the student's full, legal name as shown on the birth certificate or other legal document, date of birth, and gender (male or female);
- (4) enter the student's instruction permit number, date of classroom completion, and date of laboratory (in-car) completion;
- (5) the parent or legal guardian will sign on the line "Signature of Driver Education Teacher";
- (6) enter the parent's or guardian's driver's license number on the line "TEA Number";
- (7) enter "Home" on the line "School, ESC, College or University";

(8) leave blank the two lines which read "Signature () Chief School Official" and "Driver Education School Number"; and

(9) enter the date on the line "Date Issued." This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas on September 10, 1996. Dudley M. Thomas Director Texas Department of Public Safety

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613571

Dudley M. Thomas

Director

Texas Department of Public Safety

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 424-2890



Department Approved Driver Education Courses

37 TAC §§18.31-18.33

The Texas Department of Public Safety proposes new §§18.31-18.33 concerning department approved driver education courses. The new sections promulgate the standards for course approval, course evaluation, and appeal procedures.

Tom Haas, Chief of Finance, has determined that for each year of the first five years the sections are in effect there will be no significant fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Haas also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the reduced cost of driver education training for teenagers. It is possible Commercial Driving Schools will lose income because of the loss of students enrolling in their driver education training program. However, the department has no data on which to base this. The cost to persons who are required to comply with the sections as proposed will be the approximately \$20 cost of the Texas Education Agency Driver Education Instruction Curriculum Model.

Comments on the proposal may be submitted to John C. West, Jr., Chief of Legal Services, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001.

The new sections are proposed pursuant to Texas Civil Statutes, Article 6687b, §7A which provides the department by rule shall provide for approval of a driver training course given by the parent or legal guardian of a person who is required to complete successfully a driver training course to obtain a Class C license.

Texas Civil Statutes, Article 6687b, §7A is affected by this proposal.

§18.31. Requirements for Approval of Course.

(a) Texas Civil Statutes, Article 6687b, §7A, provides the department may not approve a course unless it determines that the

course materials are at least equal to those required in a course approved by the Central Education Agency. To be approved, a course must contain a minimum of the units as shown in Figure 1: 37 TAC §18.31(a).

(b) A textbook, approved by the Texas Education Agency for driver education, is an integral part of driver training and is a required resource.

(c) Behind-the-wheel instruction and practice hours during the laboratory phase.

Figure 2: 37 TAC §18.31(c).

(d) The department adopts by reference the DRIVER EDUCATION INSTRUCTION CURRICULUM MODEL FOR PARENTS AND LEGAL GUARDIANS and it is the standard upon which each program will be evaluated and may be used as an approved course.

(e) The curriculum is available for inspection at the department's Austin headquarters.

§18.32. Submission of Course for Department Approval.

(a) Entities desiring to have courses evaluated for department approval must submit their complete course curriculum and copies of all materials to: Inspection and Planning, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, Attention: Driver License Inspectors.

(b) The curriculum will be evaluated. If it substantially meets or exceeds the minimum standards of the Driver Education Curriculum Model for Parents and Legal Guardians, and the TEA Driver Education Classroom and In-Car Instruction Curriculum Guide, the course will be approved and the course name and address for ordering materials will be added to the approved list which will be made available upon request to the department in the Driver Education Materials Packet available from the Department of Public Safety, General Services Bureau. Notification of approval or disapproval will be sent to the entity. In cases of disapproval, deficiencies will be noted. Any subsequent change in the course curriculum or materials will require submission for approval as stated in subsection (a) of this section.

(c) Submitted materials will be retained in the department files.

§18.33. Appeal of Department Decision.

The decision of the department to disapprove a submitted course may be appealed in accordance with the provisions of Texas Government Code, Chapter 2001.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 10, 1996.

TRD-9613570

Dudley M. Thomas

Director

Texas Department of Public Safety

Earliest possible date of adoption: October 28, 1996

For further information, please call: (512) 424-2890



ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 25. Agricultural Development Board

Subchapter A. General Provisions

4 TAC §25.13

The Texas Department of Agriculture (the department) adopts the repeal of §25.13, concerning expiration provision, without changes to the proposed text as published in the July 23, 1996, issue of the *Texas Register* (21 TexReg 6863).

The purpose of the repeal is to eliminate unnecessary regulations. The Agricultural Development Act is no longer a functional program.

The repeal eliminates the expiration provision for Chapter 25 of the department's regulations.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Agriculture Code, §12.016, which provides the Texas Department of Agriculture with the Authority to adopt rules for administration of the Texas Agriculture Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613645

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: October 9, 1996

Proposal publication date: July 23, 1996

For further information, please call: (512) 463-7583



TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 20. Administration

Subchapter A. Contracts and Purchases

16 TAC §20.5

The Railroad Commission of Texas adopts new §20.5, relating to historically underutilized businesses, without changes to the version published in the July 12, 1996, *Texas Register* (21 TexReg 6403).

The new section adopts by reference the rules of the Texas General Services Commission in 1 Texas Administrative Code, §§111.11 - 111.23, relating to historically underutilized business certification program, and promotes full and equal business opportunity for all businesses in state contracting. This rulemaking is required by the General Appropriations Act, House Bill 1, 74th Legislature, 1995, Section 111, titled "Contracting with Historically Underutilized Businesses."

The commission received no comments on the proposal.

The commission adopts the new section pursuant to Section 111, paragraph 5, General Appropriations Act, House Bill 1, 74th legislature, 1995, which requires state agencies to adopt the rules of the General Services Commission concerning historically underutilized businesses, and Texas Civil Statutes, Article 6447, which authorizes the commissioners to make all rules necessary for their government.

The following articles, codes, and acts are affected by the adopted new section: §20.5 Section 111, General Appropriations Act, House Bill 1, 74th Legislature, 1995; Texas Civil Statutes, Article 6447; and Texas Government Code, Chapters 2155, 2158, 2161, 2162, 2166, 2252, and 2254.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 17, 1996.

TRD-9613612

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Effective date: October 8, 1996

Proposal publication date: July 12, 1996

For further information, please call: (512) 463-7008



TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 145. Professional Environment

Subchapter B. Employment Assurances

19 TAC §145.24

The Texas Education Agency (TEA) adopts the repeal of §145.24, concerning employment assurances for school district personnel, without changes to the proposed text as published in the June 14, 1996, issue of the *Texas Register* (21 TexReg 5421). The Texas Education Code grants classroom teachers and full-time librarians a duty-free lunch except in the event of a personnel shortage, extreme economic conditions, or an unavoidable or unforeseen circumstance. Section 145.24 provides guidelines for school districts regarding these exceptions.

Senate Bill 1, 74th Texas Legislature, 1995, transferred authority for the information contained in this section from the State Board of Education to the commissioner of education. The repeal is necessary to comply with the sunset review process mandated by Senate Bill 1.

New §153.1001 (relating to duty-free lunch) has been adopted under the authority of the commissioner of education.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613641

Criss Cloudt

Associate Commissioner, Policy Planning and Research
Texas Education Agency

Effective date: October 9, 1996

Proposal publication date: June 14, 1996

For further information, please call: (512) 463-9701



TITLE 22. EXAMINING BOARDS

Part XXXIV. Texas Board of Licensure for Professional Medical Physicists

Chapter 601. Medical Physicists

22 TAC §§601.2, 601.4, 601.8, 601.9, 601.19

The Texas Board of Licensure for Professional Medical Physicists (Board) with the approval of the Texas Department of Health (department) adopts amendments to §§601.2, 601.4, 601.8 and 601.9; and new §601.19, concerning licensed medical physicists and temporary licensed medical physicists. Sections 601.8 and 601.9 are adopted with changes to the proposed

text as published in the June 18, 1996, issue of the *Texas Register* (21 TexReg 5518). Section 601.2, 601.4 and 601.19 are adopted without changes and therefore will not be republished.

Specifically, the sections provide for the regulation of persons performing medical physics and cover definitions, fees, licensure by examination, temporary license; and establishes procedures for suspension and reinstatement of a license for failure to pay child support implementing House Bill 433, 74th Legislature, Chapter 751, §85.

The rules add a definition for supervision; add a child support reinstatement fee; update and clarify existing language; clarify temporary license renewals; and establish procedures for suspension and reinstatement of license for failure to pay child support implementing House Bill 433, 74th Legislature, Chapter 751, §85.

A summary of comments and the Boards response to the comments follows:

COMMENT: A commenter questioned the intent of wording in §601.8(e) and (f) to include only the failed board examination.

RESPONSE: The Board's intent was to only monitor failure of the board examination. No changes were made.

COMMENT: Two comments were received regarding §601.9(c) and (d). The commenters concern was the number of times a temporary license could be renewed while in the exam process.

RESPONSE: The board agrees and changed the wording in §601.9(d) to allow subsequent renewals during the examination process if appropriate documentation is submitted.

The comments were received from the Division of Radiological Physics, Scott and White Clinic.

Editorial changes were made to §601.8 for clarification purposes.

The amendments and new section are adopted under the Texas Medical Physics Practice Act, Texas Civil Statutes, Article 4512n, §11, which requires the Texas Board of Licensure for Professional Medical Physicists to adopt rules, with the approval of the Texas Department of Health, that are reasonably necessary for the proper performance of its duties under the Texas Medical Physics Practice Act, Texas Civil Statutes, Article 4512n.

§601.8 Licensure By Examination.

(a) Eligibility. To be eligible to take a specialty examination for an annual license for a professional medical physicist, a person must:

(1) (No change.)

(2) have demonstrated, to the Texas Board of Licensure for Professional Medical Physicists (board) satisfaction, the completion of at least two years of full-time work experience;

(3) have work experience in more than one specialty to include six additional months of full-time equivalent work experience in each specialty; and

(4) submit a completed application as required by the Texas Medical Physicists Act (Act), §14.

(b) Work experience. Full-time work experience shall be at least 32 hours per week in the specialty area. Part-time work experience may be aggregated in order to meet the minimum of 32 work hours per week. All work experience must have been completed in the five years preceding the date of application (the date of receipt of the application for an annual license or for the upgrade of a temporary license to an annual license) in the medical physics specialty for which application is made.

(c) (No change.)

(d) Approved specialty examination.

(1) An applicant under this section must successfully complete one of the following examinations in each specialty for which application is submitted:

(A) the examination in the specialty developed and administered by the board; or

(B) -(E) (No change.)

(2) (No change.)

(e) Failure of board examination. If the applicant fails the board examination in a specialty area, the approval to take the board examination will be voided if the applicant does not take either or both of the next two board examinations and cannot document medical or physical reasons acceptable to the board for failure to take either of the next two board examinations. The applicant will be required to submit a new application for licensure before the applicant may take another examination.

(f) Failure of more than one board examination. An applicant who fails three board examinations in a specialty area may not reapply for an additional examination in the specialty area until the applicant has demonstrated, to the board's satisfaction, the completion of at least one additional year of full-time work experience after the third failed examination.

(1) (No change.)

(2) The applicant must hold a temporary license in the specialty area during the work experience if the experience is gained in this state.

(A) The applicant may be issued up to two additional temporary licenses only in order to gain the work experience required by this paragraph and to retake the examination once.

(B) The applicant must take and pass the next examination offered after completion of the additional work experience.

(C) Any temporary license issued under this subsection shall expire upon notification to the board that the applicant failed to apply for or failed to appear for the examination, upon notification to the applicant of his or her failure of the examination, or upon the issuance of his or her annual license if the examination was passed, whichever occurs first.

(D) An applicant who completes the work experience within the first year the additional temporary license is issued under this subsection and for whom an examination is given and results released during that year is not entitled to any further temporary licenses in that specialty area.

(3) In order to obtain an annual license the applicant must reapply for licensure under subsection (a) of this section and must

take and pass an examination as set out in subsection (d) of this section.

(g) Upgrade. Following successful completion of a medical physics specialty examination as set out in subsection (d) of this section and the relevant work experience, a temporary licensee may upgrade the temporary license to an annual license.

(1)-(2) (No change.)

(h) (No change.)

§601.9. *Temporary License.*

(a)-(b) (No change.)

(c) Each temporary license may be renewed annually up to three times. The licenses do not have to be for consecutive years.

(d) Subsequent renewals may be granted by the executive secretary if the licensee requests the renewal in writing prior to the expiration of the temporary license; and:

(1) provides satisfactory evidence to the board that the renewal applicant has applied for or has been scheduled for the same specialty area examination(s) for which renewal is requested. (The examination must occur during the period in which the renewal would be effective);

(2) provides satisfactory evidence to the board of continued efforts towards completion of an examination during the previous periods the licensee held a temporary license; and

(3) submits to the board the completed renewal form and the renewal fee.

(e) The application for renewal of a temporary license shall include information regarding the experience in the medical physics specialty completed by the renewal applicant during the previous one-year period.

(f) The work experience must be under the supervision of a medical physicist holding an annual license in the specialty area.

(g)-(h) (No change.)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613568

Susan K. Steeg

General Counsel

Texas Board of Licensure for Professional Medical Physicists

Effective date: October 7, 1996

Proposal publication date: June 18, 1996

For further information, please call: (512) 458-7236

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 181. Vital Statistics

Miscellaneous Provisions

25 TAC §181.13

The Texas Department of Health (department) adopts new §181.13, relating to birth certificate form, content, and electronic transmission, without changes to the proposed text as published in the June 14, 1996 issue of the *Texas Register* (21 TexReg 5425).

The section establishes the criteria for the items of information on certificates of birth and allows licensed facilities to electronically transmit information in lieu of printing a complete form.

The new rule provides increased protection of sensitive personally identifiable medical and health information from inadvertent disclosure.

A summary of comments received and the departments responses follows:

Comment: Seven comments were received from hospitals; all were in favor of the rule with respect to patients rights of privacy and confidentiality.

Response: The department agrees.

Comment: Five comments were received from local registrars. Four were in favor of the short version because it will eliminate the need to scrutinize numerous records at a given time, thus decreasing errors from double-entry of information. One negative comment received misunderstood the proposed rule and wanted the Bureau to have laws to clearly state that certified copies cannot be issued with identifying medical and health information.

Response: The department agrees with the first four commenters. In response to the fifth commenter, the department explained that a statute already exists.

The commenters from hospitals were: Columbia Medical Center West, Medical Records, El Paso; Bee County Regional Medical Center, Medical Records, Beeville; Abilene Regional Medical Center, Health Information, Abilene; Columbia Woodland Heights Medical Center, Medical Records, Lufkin; Columbia Clear Lake Regional Medical Center, Medical Records, Webster; University Health System, Medical Records, San Antonio; and Columbia Bayshore Medical Center, Medical Records, Pasadena. The commenters from local registrars were: Waco - McLennan County, Public Health Director, Waco; City of Grapevine Vital Statistics, Grapevine; Collin County Clerk, McKinney; City of Bryan Vital Statistics, Bryan; and Jones County Clerk, Anson.

The new sections is adopted under authority of the Health and Safety Code, §191.003, which provides the Board of Health with authority to adopt necessary rules for collecting, recording, transcribing, compiling, and preserving vital statistics, and §192.002 which provides the department the authority to prescribe the form and content of the birth certificate.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613566
Susan K. Steeg

General Counsel

Texas Department of Health

Effective date: October 7, 1996

Proposal publication date: June 14, 1996

For further information, please call: (512) 458-7236



Chapter 217. Milk and Dairy

Grade A Milk Specifications

25 TAC §217.75

The Texas Department of Health (department) adopts an amendment to §217.75, concerning Grade "A" raw for retail milk dairy farms, without changes to the proposed text as published in the June 14, 1996 issue of the *Texas Register* (21 TexReg 5426). A correction of error to the proposed text of §217.75 was published in the July 5, 1996 issue of the *Texas Register* (21 TexReg 6265).

The section provides for the regulation of Grade "A" raw for retail milk dairy farms. The amendment establishes a standard of where and under what conditions raw milk for retail (direct consumption) may legally be sold. Milk producers or dairy farms will be required to obtain a Grade "A" raw for retail milk permit and comply with all standards before raw milk for retail may legally be sold directly to the public.

The section will provide assurance that Grade "A" raw for retail milk offered for sale within the State of Texas will be of higher quality and offer a greater margin for safety from milkborne diseases.

No comments were received regarding the proposal of this rule.

The amendment is adopted under Health and Safety Code §12.001, which provides the Texas Board of Health with the authority to adopt rules for performance of every duty imposed by law on the Texas Board of Health, the department, and the Commissioner of Health.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613567

Susan K. Steeg

General Counsel

Texas Department of Health

Effective date: October 7, 1996

Proposal publication date: June 14, 1996

For further information, please call: (512) 458-7236



TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 3. Life, Accident, and Health Insurance

Subchapter T. Minimum Standards for Medicare Supplement Policies

28 TAC §3.3312

The Texas Department of Insurance adopts repeal of §3.3312, concerning minimum standards for Medicare supplement policies, without changes to the proposed repeal of the section as published in the May 14, 1996, issue of the *Texas Register* (21 TexReg 4212).

Repeal of §3.3312 is necessary because the provisions of §3.3312 provide for transitional requirements for the conversion of Medicare supplement insurance benefits and premiums to conform to Medicare program revisions, including the enactment in 1988, and subsequent repeal in 1989, of the Medicare Catastrophic Coverage Act of 1988. Such provisions are no longer necessary or essential to the overall regulatory framework for Medicare supplement coverages.

Repeal of §3.3312 will result in greater uniformity of the department's Medicare supplement rules with the federal regulations by elimination of a section which is obsolete and outdated.

No comments were received on the proposed repeal as published.

The repeal is adopted under the Insurance Code, Articles 3.74 and 1.03A. Article 3.74 provides that the department shall issue reasonable rules to establish specific standards for provisions of Medicare supplement policies, including requirements that are at least equal to those required by federal law, and to establish standards to the extent necessary for the state to obtain or retain certification as a state with an approved regulatory program under 42 U.S.C. §1395ss. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance as authorized by statute.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613659

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: October 9, 1996

Proposal publication date: May 14, 1996

For further information, please call: (512) 463-6327



Subchapter W. Miscellaneous Rules for Group and Individual Accident and Health Insurance

Required Disclosure Statement for Policies that are not Medicare Supplement Policies

28 TAC §3.3614

The Texas Department of Insurance adopts new §3.3614, relating to the required disclosure statement for policies that

are not Medicare supplement policies, without changes to the proposed text of the section as published in the May 14, 1996, issue of the *Texas Register* (21 TexReg 4212).

The section is necessary to transfer from Subchapter T of this chapter to Subchapter W of this chapter the notice requirements for the content and format of the required disclosure statement which must be provided to inform prospective buyers of health insurance policies about the nature and character of certain health coverages that are not Medicare supplement coverages. The transfer of such notice requirements is necessary because the notice proposed in §3.3614 relates to coverages which are not Medicare supplement coverages, while Subchapter T contains provisions designed to address minimum standards for coverages which are primarily designed, marketed and sold to supplement Medicare benefits. The new section results in a more appropriate location in the Texas Administrative Code for the notice requirements, thereby resulting in the more effective disclosure to prospective insureds of the fact that certain health coverages are not Medicare supplement coverages and making it possible for them to make a more informed choice regarding the decision to purchase health coverages.

Adopted §3.3614 sets out the purpose, scope, form and language of the required notice and disclosure statement for accident and health policies that are not Medicare supplement.

No comments were received on the proposal as published. One interested party requested a hearing on the proposed section. The consideration of proposed new 28 TAC §3.3614 was heard August 21, 1996 as Docket Number 2236. No interested person commented at the hearing.

The new section is adopted pursuant to the Insurance Code, Articles 3.74, 3.70-3 and 1.03A. Article 3.74, §5(d) provides that the department may promulgate reasonable rules for captions or notice requirements determined to be in the public interest and designed to inform prospective insureds, subscribers, or enrollees that particular coverages are not Medicare supplement coverages. Article 3.70-3 authorizes the department to adopt rules and regulations for the filing an submission of health insurance policies as are necessary, proper or advisable. Article 1.03A authorizes the Commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613653

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: October 9, 1996

Proposal publication date: May 14, 1996

For further information, please call: (512) 463-6327



Chapter 5. Property and Casualty Insurance

Subchapter . Temporary Rate Reduction for Certain Lines of Insurance

28 TAC §5.14011

The Commissioner of Insurance of the Texas Department of Insurance adopts new §5.14011, concerning temporary rate reductions for certain lines of insurance. The section is adopted without changes to the proposed text as published in the July 26, 1996 issue of the Texas Register (21 TexReg 6936).

The 73rd and 74th Texas legislatures passed several bills intended to reform the civil justice system of this state and to result in reductions in the cost of litigation and in the size of judgments. This effort is commonly called "tort reform". To ensure that savings from tort reforms are passed on prospectively to Texas policyholders, the legislature enacted what is now codified as Article 5.131, Texas Insurance Code. That Article requires the commissioner of insurance to hold an annual hearing and to issue rules on or before October 1 of each year mandating the appropriate rate reductions to rates for certain lines and sublines of liability coverage described in the article. In 1995, the agency and other interested parties engaged in extensive study and review of available data to determine the appropriate percentage of rate reductions for policies effective in 1996. In October, 1995, after extensive study and a two day public hearing, the commissioner adopted new rules, 28 TAC §§5.14000-5.14010, which apply to policies effective on or after January 1, 1996. Those sections set forth the calculation and application of the amount of the rate reduction for certain lines of insurance necessary for insurers to pass through to policyholders, on a prospective basis, the reduction in loss and allocated loss adjustment expense anticipated from recent tort reform legislation. They also establish filing requirements and provide for administrative relief. Because most of the reforms have been in effect less than a year and there are no new data reflecting the effect of the reforms on insurance losses, the commissioner determined to continue the 1996 rate reduction percentages in effect for the coming year. New §5.14011 is necessary to effect the continuation in 1997 of the loss and allocated loss adjustment expense (ALAE) reduction percentages enacted in §5.14004. All of the sections enacted last year will remain in effect.

New §5.14011 provides that the loss and ALAE reduction percentages by line as set forth in §5.14004 will be used to calculate the rate reduction factor to be applied to the rate or charge for each policy effective on and after January 1, 1997.

The department received three written comments on the proposed rule, each of which supports adoption of the rule without changes. An additional commenter did not submit written comments but testified at the public hearing in support of the proposed rule. At the August 27, 1996 public hearing, one of the groups that had submitted written comments also presented actuarial testimony supporting the current rate reduction percentages and arguing against enacting scaled rates for personal auto policies based on the limits of coverage. The agency agrees with the statements that the current loss and ALAE provisions underlying the rates are reasonable and should remain in effect for 1997 and agrees to study for next year's hearing the issue of whether personal auto rate reduction percentages should be scaled according to policy limits.

For: Alliance of American Insurers, Consumers Union, National Association of Independent Insurers, Office of Public Insurance Counsel. Against: None.

The new section is adopted under the Insurance Code, articles 5.131, 5.98 and 1.03A. Article 5.131 enacted by the 74th Legislature requires the commissioner to hold a hearing, on or before September 1 of each year to determine the appropriate rate reductions for certain lines of insurance to pass through, on a prospective basis, the savings that accrue from tort reform legislation enacted in the regular sessions of the 73rd and 74th legislatures. Article 5.98 authorizes the commissioner to adopt rules to accomplish the purposes of Chapter 5. Article 1.03A authorizes the commissioner of insurance to promulgate and adopt rules and regulations for the conduct and execution of the duties and functions of the department.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613652

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: October 9, 1996

Proposal publication date: May 14, 1996

For further information, please call: (512) 463-6327

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 53. Finance

31 TAC §53.50

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, July 11, 1996, adopted new §53.50, concerning Texas Freshwater Fisheries Center admission fees without change to the proposed text as published in the June 7, 1996, issue of the *Texas Register* (21 TexReg 5146).

The new section establishes fees necessary for maintaining the level of services now provided by the department. Further, the goal in establishing the fee is that of providing self-sufficiency in operation and maintenance of the Texas Freshwater Fisheries Center.

The new section as proposed sets general admission fees for the Texas Freshwater Fisheries Center and sets requirements for student groups seeking entrance to the Center.

The department received no public comment concerning the proposed rule.

The new section is adopted under authority of Parks and Wildlife Code §11.027(c) which allows the department to acquire and resell items if a profit can be made, to provide funding for

programs administered by the department. The entrance fee will entitle persons to a Texas Freshwater Fisheries Center Commemorative Token which provides tour privileges at the Center.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

TRD-9613578

Bill Harvey

Regulatory Coordinator

Texas Parks & Wildlife Department

Effective date: October 7, 1996

Proposal publication date: June 7, 1996

For further information, please call: (512) 389-4642



Chapter 65. Wildlife

Subchapter N. Migratory Game Bird Proclamation

31 TAC §65.317, §65.318

The Texas Parks and Wildlife Commission adopts new §65.317 and §65.318, concerning Migratory Game Bird Proclamation, with changes to the proposed text as published in the April 16, 1996, issue of the *Texas Register* (21 TexReg 3319).

The change to §65.317 makes nonsubstantive changes to terminology and organization. The change to §65.318 makes housekeeping changes to terminology, creates an open season on Canada geese in Anderson and Henderson counties, modifies season dates, and alters certain bag and possession limits in the implementation of the commission policy of adopting the most liberal regulations possible under regulatory frameworks imposed by the U.S. Fish and Wildlife Service.

The new sections are necessary to eliminate duplication, restructure and reorganize regulatory provisions in the interest of promoting user-friendliness, and to establish the season dates, shooting hours, and bag limits for late season migratory species during the 1996-1997 hunting season.

The new sections will function to establish legal species, zone boundaries, means and methods, season dates, shooting hours, and bag limits for the harvest of migratory game birds.

The department received a total of 228 comments concerning adoption of the rules.

Eighteen commenters requested some type of zone or boundary change. The department responds that with respect to zones and boundaries for all species except ducks, coots, and mergansers, the department is committed to the present zones and boundaries. Although the department had the option this year of splitting eastern Texas into north and south zones for duck hunting, staff determined after analyzing public comment that the need for such a split was not clear and that the length of the current season reduces the necessity for such action at this time. No changes were made as a result of the comments.

Two hundred and four commenters requested various opening dates and/or split seasons for late season migratory game bird species. The department responds that dates adopted by the commission reflect a staff recommendation that seeks to equitably distribute harvest opportunity among the greatest number of hunters while taking into account the environmental factors influencing the movement of migratory birds in the state. No changes were made as a result of the comments.

One commenter requested that the daily bag limit for light geese be set at ten in the Western Goose Zone. The department responds that the commission adopted a bag limit of ten birds in the Western Zone.

One commenter was opposed to any change in zones and boundaries. The department responds that no changes were made to existing zones and boundaries.

One commenter requested later shooting hours for light geese in the Eastern Goose Zone. The department responds that the frameworks established by the U.S. Fish and Wildlife Service specify that shooting hours shall not extend past sundown. No changes were made as a result of the comment.

One commenter opposed a split season for ducks. The department responds that a split season was preferred by a majority of hunters and that the department institutes a split season to offer greater opportunity to hunters. No changes were made as a result of the comment.

One commenter opposed any increases in season length or bag limits. The department responds that the commission policy is to adopt the most liberal regulations possible within the frameworks imposed by the U.S. Fish and Wildlife Service. No changes were made as a result of the comments.

One commenter requested that the duck season opening date be set so as not to conflict with the South Zone opening date for deer season. The department responds that no such conflict exists.

The new sections are adopted under Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the Commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

§§65.317. *Zones and Boundaries for Late Season Species.*

(a) Ducks, mergansers, and coots.

(1) High Plains Mallard Management Unit: that portion of Texas lying west of a line from the international toll bridge at Del Rio, thence northward following U.S. Highway 277 to Abilene, State Highway 351 and State Highway 6 to Albany, and U.S. Highway 283 from Albany to Vernon, thence eastward along U.S. Highway 183 to the Texas-Oklahoma state line.

(2) The remainder of the state.

(b) Geese.

(1) Western Zone: that portion of the state lying west of a line from the international toll bridge at Laredo, thence northward following IH 35 and 35W to Fort Worth, thence northwest along U.S. Highways 81 and 287 to Bowie, thence northward along U.S. Highway 81 to the Texas-Oklahoma state-line

(2) Eastern Zone: the remainder of the state.

(c) Sandhill cranes.

(1) Zone A: that portion of Texas lying west of a line beginning at the international toll bridge at Laredo, thence northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, thence north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, thence northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, thence north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, thence east along U.S. Highway 62 to the Texas-Oklahoma state line.

(2) Zone B: That portion of Texas lying within boundaries beginning at the junction of Interstate Highway 35 and the Texas-Oklahoma state line, thence south along Interstate Highway 35 (following Interstate Highway 35 West through Fort Worth) to its junction with Interstate Highway 10 in San Antonio thence northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in Junction, thence north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, thence east along U.S. Highway 62 to the Texas-Oklahoma state line, thence eastward along the Texas- Oklahoma state line to Interstate Highway 35.

(3) Zone C: that portion of Texas lying within boundaries beginning at the international toll bridge at Brownsville, thence north and east along U.S. Highway 77 to its junction with U.S. Highway 87 at Victoria, thence eastward along U.S. Highway 87 to its junction with Farm Road 616 at Placedo, thence north and east along Farm Road 616 to its junction with State Highway 35, thence north and east along State Highway 35 to its junction with State Highway 6 at Alvin, thence west and north along State Highway 6 to its junction with U.S. Highway 290, thence westward along U.S. Highway 290 to its junction with Interstate Highway 35 at Austin, thence south along Interstate Highway 35 to its junction with U.S. Highway 81 in Laredo, thence southwest along U.S. Highway 81 to the international toll bridge in Laredo, thence south and east along the U.S.-Mexico international boundary to its junction with the U.S. Highway 77 international toll bridge at Brownsville.

(d) Woodcock: statewide.

(e) Common snipe (Wilson's snipe or jacksnipe): statewide.

§§65.318. *Open Seasons and Bag and Possession Limits - Late Season.*

The possession limit for all species listed in this section shall be twice the daily bag limit, except for light geese. The possession limit for light geese shall be four times the daily bag limit.

(1) Ducks, mergansers, and coots. The daily bag limit for ducks is five, which may include no more than one mallard hen or one Mexican mallard (Mexican duck) hen, one mottled duck, one pintail, two redheads, one canvasback, and two wood ducks. The daily bag limit for coots is 15. The daily bag limit for mergansers is five, which may include no more than one hooded merganser.

(A) High Plains Mallard Management Unit: October 26-29, 1996 and November 2, 1996 - January 19, 1997.

(B) The remainder of the state: November 16-December 1, 1996 and December 7, 1996 - January 19, 1997.

(2) Geese.

(A) Western Zone.

(i) Light geese: November 2, 1996 - February 16, 1997. The daily bag limit for light geese is ten.

(ii) Dark geese: November 2, 1996 - February 16, 1997. The daily bag limit for dark geese is five, which may not include more than four Canada geese and one white-fronted goose.

(B) Eastern Zone.

(i) Light geese: November 2, 1996 - February 16, 1997. The daily bag limit for light geese is ten.

(ii) Dark geese: November 2, 1996 - January 26, 1997. The daily bag limit for dark geese is two, which may not include more than one Canada goose and one white-fronted goose. During the period January 20-26, 1997, the daily bag limit is one Canada goose and one white-fronted goose, or two Canada geese.

(3) Sandhill cranes. A special permit, issued free of charge by the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, is required of any person to hunt, shoot, or kill sandhill cranes in areas where an open season is provided under this proclamation. Permits will be issued on an impartial basis with no limitation on the number of permits that may be issued. The daily bag limit is three.

(A) Zone A: November 9, 1996 - February 9, 1997.

(B) Zone B: November 30, 1996 - February 9, 1997.

(C) Zone C: January 4, 1997 - February 9, 1997.

(4) Woodcock: November 28, 1996 - January 31, 1997. The daily bag limit is five.

(5) Common snipe (Wilson's snipe or jacksnipe): October 19, 1996 - February 2, 1997. The daily bag limit is eight.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 16, 1996.

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Bill Harvey, Ph.D.

Regulatory Coordinator

Texas Parks & Wildlife Department

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For further information, please call: (512) 389-4642



Chapter 69. Resource Protection

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing August 29, 1996, adopted repeal of §§69.20-69.31 and new §§69.20-69.30, concerning fish and wildlife values. Repeal of §§69.20-69.31 and new §§69.23, 69.26-69.28 were adopted without change to the text as proposed in the April 12, 1996, issue of the *Texas Register* (21 TexReg 3150). Proposed new §69.30 was adopted without change from the text proposed in the June 25, 1996, issue of the *Texas Register* (21 TexReg 5848). Adopted new §§69.20, 69.21-69.22, 69.24-69.25, and 69.29 were adopted with changes to proposed text.

Adopted change in §69.20(b), concerning Application, includes trophy game animals as a category of animals which may be valued for civil restitution. Change in §69.21, concerning Definitions, deletes the term replacement value as it is considered synonymous with basic value for the purposes of these rules. Change in §69.22(d), concerning Wildlife - Recovery Values, the upper range of the adjusted criteria score range was adjusted by adding 0.9 to the upper value for each value range. This mathematical adjustment eliminates arbitrary decisions about which value to seek for civil restitution when a criteria score falls between the upper value for one level and the lower value for another value.

Change in adopted §69.24 (a), deletes the term replacement value in description of the source of information for basic values. Replacement value is considered synonymous with basic value and therefore it is unnecessary to repeat it in the rule. In §69.24(b), the basic value for noncommercial shellfish was related only to the basic value for freshwater or saltwater forage fish. The sources for basic value for noncommercial shellfish now may include basic values which we may find in the future for noncommercial shellfish which are taxonomically or ecologically-related to the species being valued and §69.24(c) was added to clarify how basic values will be adjusted for inflation.

Change in §69.25 (b) includes clarification that the designation of recreational value for fish under this rule is only intended for purposes of civil restitution and §69.25 (c) was modified to clarify that recreational value would only be adjusted for inflation up to the time at which the fish were killed and not to the time at which a civil restitution request was made of a responsible party.

Change in adopted §69.25 (d) clarifies that recreational value calculations for fish with high recreational value as represented by the availability of substantial and adequate catch per unit effort data for that particular species would include the catch per unit effort information in the calculation.

Change in adopted §69.29 combines the lists of fish designated as having recreational value and those having exceptional recreational value into one list of fish designated as having recreational value for purposes of civil restitution.

The department is authorized to seek civil restitution for fish, wildlife and animals which have been illegally killed, injured, damaged or taken. Frequently large numbers of fish are killed by illegal discharges of wastewater or other types of pollution such as chemical spills. Civil restitution also may be sought by the department for fish and wildlife which are taken illegally by fishermen and hunters. The rule describes how the department will assign monetary value to fish and wildlife for the purpose of obtaining civil restitution.

The rules as adopted are necessary to implement the system of assessing and collecting restitution value for fish and wildlife taken in violation of the Parks and Wildlife Code or the Water Code. The rules also establish a fair market value for trophy wildlife species. The new rules as adopted should enhance the department's ability to recover restitution amounts assessed as a result of illegal take of fish and wildlife species and increase recovery of costs related to loss of fish and wildlife resulting from illegal take of these species.

The Department received one comment letter from Texas Utilities (TU). TU supports use of the midpoint value for wildlife. TU recommends using Texas-specific data to determine the basic value for recreational fish. (1) TU recommends assigning negative values or \$0 values to nuisance species. For example, if someone kills 1000 common carp during a pollution incidence, they should not have to pay any restitution for those fish since they are generally considered a nuisance. (2) TU recommends standardizing the scoring criteria and weighting factors for wildlife values. Wildlife Division is currently in the process of evaluating this process. (3) TU recommends elimination of the "complicated formula" for calculation of recreational value. (4) TU recommends more flexibility into the regulations for restoration or mitigation of damage.

The new sections as adopted provide a much more limited list of recreational species of fish compared to the repealed rule which would assign recreational value to any species of fish with a state angling record in Texas. (1) The new rule addresses the issue of nuisance species by restricting the number of fish species which are designated as having recreational value. For example, carp are much lower in value under the adopted rules than under provisions of the repealed rules. (2) The formula for computed values allows TPWD much greater flexibility in determining the values of different species. The implementation document produced in conjunction with the rule will make it clear how value is calculated. Additionally the department will have the ability to provide copies of a very large table listing the values of each size class of each species. (3) The rule does not specifically state how the value of the lost fish and wildlife should be reimbursed to the state. (4) The department provides substantial flexibility to responsible parties to allow them to compensate the state for lost value.

Fish and Wildlife Values

31 TAC §69.20–69.31

The repeals are adopted under Parks and Wildlife Code, §12.302 and Water Code §26.124 which provides Parks and Wildlife Commission authority to promulgate rules to establish guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds and animals.

This agency hereby certifies that the adoption as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Bill Harvey

Regulatory Coordinator

Texas Parks & Wildlife Department

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31 TAC §§69.20–69.29

The new rules are adopted under Parks and Wildlife Code, §12.302 and Water Code §26.124 which provide Parks and Wildlife Commission authority to promulgate rules to establish

guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds and animals.

§69.20. Application.

(a) Rules under this subchapter establish guidelines for measuring the monetary value of each individual of any species of aquatic life or wildlife:

(1) unlawfully killed, caught, taken, possessed or injured in violation of the Parks and Wildlife Code or in violation of any regulation adopted under authority of the Parks and Wildlife Code; or

(2) normally taken for commercial or recreational purposes, or any species on which aquatic life or wildlife is directly dependent for food, where a violation of the Texas Water Code is determined to be a proximate cause of injury to such species.

(b) The values assigned to wildlife species or aquatic species, including any value added for endangered or threatened species or trophy game animals, and values of other species not listed but derived by application of these guidelines are prima facie evidence of damages recoverable for the unlawful catching, killing, possession, injury or taking of such species.

§69.21. Definitions.

The following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Basic value - The cost required to grow a fish to a particular size.

Commercial species- These species of fish, shellfish, and wildlife normally taken for sale rather than for recreational purposes.

Department—The Texas Parks and Wildlife Department.

Endangered species - All species listed at §§65.181-65.184 of this title (relating to Endangered Species).

Forage species- Those species upon which other aquatic life or wildlife directly depend for food.

Minimum hookable total length —The minimum total length of a fish that is normally caught and released or caught and landed for recreation. The minimum hookable total length is six inches for all species except sunfish which shall have a minimum hookable total length of five inches.

Recovery value - The total value of an individual of a particular size and species. The recovery value is the value of a species at the time it was illegally killed, caught, taken, possessed, or injured.

Threatened species - All species listed at §§65.171-65.177 of this title (relating to Regulations for Taking Possessing, and Transporting Protected Nongame Species).

§69.22. Wildlife - Recovery Values.

(a) Each species of bird, reptile, amphibian, or animal shall be assigned a score of 0-3 for each of eight scoring criteria. The sum of the scores for the eight criteria (subsection (b) of this section) shall be multiplied by a weighting factor (subsection (c) of this section), and the resulting adjusted criteria score is compared to the monetary scale (subsection (d) of this section) to obtain a monetary value.

(b) For scoring criteria listed in paragraphs (1)-(8) of this subsection, a species which is not sought at all shall be scored as 0, while a highly sought species shall be scored 3.

(1) Recreation. The extent to which a species is actively sought by users with wildlife interests. Scoring considers both harvest and nonharvest use of a species.

(2) Aesthetic. The social value of wildlife species. These values represent wildlife species' beauty or unique natural history. Aesthetic values for these species exist whether or not a person ever would encounter one in its natural habitat.

(3) Educational. The educational value of a species arising from, for example, published materials and other audio-visual media about the species, displays in zoos, or the relative frequency with which the species is used to exemplify important curricula principles.

(4) Scarcity. The relative population of a species within the range of its habitat, from abundant to scarce.

(5) Environmental Tolerance. The ability of a species to tolerate normal changes in climate, topography, water regimes or other ecological factors which may limit range and population.

(6) Economics. The direct or indirect economic benefit attributable to the species as a result of recreational or legal transactions.

(7) Recruitment. Reproductive and survival potential of a species as it relates to the capability for replacement of its population following decrease or loss.

(8) Ecological role. A species' relationships with other life forms—and the species contribution to a healthful and stable balance of nature. Widely-consumed forage species score high, as do predators which control prey species populations. Forage species that are not widely consumed score low, as do predators which contribute little to regulation of prey populations.

(c) The individual scores for the criteria are summed to derive a total criteria score. The total criteria score is multiplied by a weighting factor which adjusts the summed criteria score for variance in public demand and/or perception of value for a species. The weighting factor relates the overall demand for a species to its existing supply and to future opportunity for public use. The weighting factors are:

(1) 1.0 - Abundant. No additional public demand or perception of value exists beyond that reflected by the eight criteria in subsection (b) of this section;

(2) 1.1 - Frequent. Minor disparity exists between resource availability and public interest and the public demand fluctuates periodically around an equilibrium point;

(3) 1.3 - Rare. Substantial disparity exists between available supply and identified public interest in species that are subject to ongoing management programs;

(4) 1.5 - Scarce. The species populations are never expected to meet identified demands or needs, or management programs for a limited species are not fully developed with respect to planned recreational opportunity and economic contribution.

(d) The total criteria score multiplied by the weighting factor in subsections (a)-(c) of this section, provides an adjusted criteria score and corresponding recovery value for each species.

Figure 1. 31 TAC §69.22(d)

§69.24. Basic Value.

(a) Basic value shall be obtained from the most recent edition of the American Fisheries Society's special publication describing investigation and valuation of fish kills, except;

(1) the basic value for freshwater fish which do not have a basic value published in the most recent edition of the American Fisheries Society's special publication shall be the basic value of a taxonomically or ecologically related species for which a basic value is available.

(2) the basic value for saltwater fish not listed in the publication shall be the basic value of a taxonomically or ecologically related species for which a basic value is available, or on the commercial value of red drum produced in aquaculture facilities, whichever is most applicable.

(b) The basic value for shellfish without commercial value is equal to the basic value for freshwater or saltwater forage fish or for a taxonomically or ecologically related species for which a basic value is available.

(c) The basic value is adjusted for inflation by multiplying it by the quotient of the Consumer Price Index when the fish were killed, divided by the Consumer Price Index at the time data were collected to determine the basic value.

§69.25. Aquatic Life - Recovery Value.

(a) The recovery value for an individual fish of a species which does not have recreational value shall be equal to its basic value.

(b) The recovery value of an individual fish shall be determined by adding the fish's basic and recreational value for species which the Commission has designated as having recreational value for the purpose of civil restitution.

(c) Recreational value for an individual fish is calculated by dividing the average value of an hour of fishing by the difference in total length between the state record fish and minimum hookable total length for that species and then multiplying that quotient by the total length in inches of the individual fish being valued, minus the minimum hookable total length for that species. This product is then adjusted for inflation by multiplying it by the quotient of the Consumer Price Index when the fish were killed, divided by the Consumer Price Index at the time data were collected to determine the average value of an hour of fishing.

(d) Recreational value of fish for which substantial and adequate catch per unit effort data are available will be calculated by multiplying the recreational value derived using subsection (c) of this section by the reciprocal of the Catch Per Unit Effort for that species in Texas.

(e) When legal means and methods were used to catch the fish, but the number of individuals taken exceeds legal daily bag, catch, or possession limits, recovery values will be applied to the number of fish in excess of the legal limit.

§69.29. Computed Values for Selected Species.

The Tables for Computed Values for Selected Species and the list of those fish species designated as having recreational value are incorporated by reference. These may be obtained by contacting Law Enforcement Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, TX, 78744.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Bill Harvey

Regulatory Coordinator

Texas Parks & Wildlife Department

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31 TAC §69.30

The new rule is adopted under Parks and Wildlife Code, §12.302 and Water Code §26.124 which provide Parks and Wildlife Commission authority to promulgate rules to establish guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds and animals.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 14. School Bus Transportation

The Texas Department of Public Safety adopts new §§14.1, 14.2, 14.11-14.14, and 14.31-14.36, concerning minimum eligibility requirements a person must meet to be employed as a school bus driver. Sections 14.1, 14.2, and 14.14 are adopted with changes to the proposed text as published in the June 11, 1996, issue of the *Texas Register* (21 TexReg 5247). New §§14.11-14.13, and §§14.31-14.36 are adopted without changes and will not be republished.

The justification for the sections will be the training and employment of eligible school bus drivers. In §14.1, Figure 1: 37 TAC 14.1(1) is changed to include a reference to these rules in the "Medical Examiners Certificate", Figure 3: 37 TAC 14.1(3) page 9 of 12 and page 10 of 12 are changed from a driving record "Type 3" example to a "Type 4" driving record example and in Figure 6: 37 TAC 14.1(6) additional clarification is needed to identify the signature line for the training coordinator. In §14.2, the department has determined that additional clarification is

necessary to define the term "School Bus" and "Enrollment Certificate". In §14.14(a)(1) the department changes its policy of providing a "Type 3" driver history to a complete driver history.

The new sections implement the provisions of Senate Bill 1, 74th Legislature, 1995, which amended Texas Education Code, §34.007 and §22.084 and amended Texas Civil Statutes, Article 6687b, §5(a), recodified as Texas Transportation Code, §521.022. These statutes require the Texas Department of Public Safety to adopt rules and procedures necessary for determining school bus driver employment eligibility and school bus driver training program requirements. These rules set forth procedures for determining school bus driver employment eligibility requirements, medical examination requirements, and the appeals process regarding medical disqualification of a school bus driver, minimum driving record qualifications, and school bus driver training program requirements.

No comments were received regarding adoption of the new sections.

Subchapter A. General Provisions

37 TAC §14.1, §14.2

The new sections are adopted pursuant to Texas Civil Statutes, Article 6687b, §5(a), recodified as Texas Transportation Code, §521.022, which require the Texas Department of Public Safety to adopt rules and procedures necessary for determining school bus driver employment eligibility and school bus driver training program requirements.

§14.1. Appendix.

The following figures apply to Chapter 14 School Bus Transportation:

(1) Medical Examination Report for School Bus Drivers;
Figure 1: 37 TAC §14.1(1);

(2) Request for Special Consideration of Medical Disqualification as a School Bus Driver;
Figure 2: 37 TAC §14.1(2);

(3) School Bus Driver's Driving Record Evaluation;
Figure 3: 37 TAC §14.1(3);

(4) Instructor's Certificate for School Bus Driver Training in Texas;
Figure 4: 37 TAC §14.1(4);

(5) School Bus Driver Training Verification;
Figure 5: 37 TAC §14.1(5);

(6) Texas School Bus Driver Training Certificate Example;
Figure 6: 37 TAC §14.1(6); and

(7) Application for School Bus Driver Enrollment Certificate,
Figure 7: 37 TAC §14.1(7).

§14.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Commission-The General Services Commission of the State of Texas.

Department-The Texas Department of Public Safety.

Director-The director of the Texas Department of Public Safety.

Enrollment certificate-A valid provisional certificate issued by a training agency under the authority of the director indicating a person has enrolled in the School Bus Driver Training Program as described in §14.35 of this title (relating to Enrollment Certificates) and meets the requirements designated therein.

Medical Advisory Board-The Medical Advisory Board of the Texas Department of Health.

Physician-A person licensed to practice medicine by the Texas State Board of Medical Examiners or the correlating state authority designated by statute to license, regulate, and discipline physicians in another state of the United States of America.

Practicing medicine-A person practicing medicine who:

(A) shall publicly profess to be a physician or surgeon and shall diagnose, treat, or offer to treat any disease or disorder, mental or physical, or any physical deformity or injury by any system or method or to effect cures thereof; or

(B) shall diagnose, treat, or offer to treat any disease or disorder, mental or physical, or any physical deformity or injury by any system or method or to effect cures thereof and charge therefore, directly or indirectly, money or other compensation.

School bus-A bus owned or leased by a school district or county transportation system, or a bus operated by a private contractor under contract with a school district or county transportation system to transport students from school to home, or from home to school, or in connection with school-related activities, excluding a bus used in an urban area by a common carrier to transport students or a bus designed to accommodate more than 10 and less than 16 passengers (including the driver) which is used to transport students on school-related activities only; that:

(A) on the date of manufacture, complied with the current requirements provided in the Texas School Bus Specifications handbook as developed, adopted, and published under authority of Texas Civil Statute, Article 6701d, §105(a), recodified as Texas Transportation Code, §547.701; or

(B) currently meets the statutory equipment requirements of a school bus found in the Texas Transportation Code, §547.607 and §547.701, including a fire extinguisher, convex mirror and four alternately flashing red lights, and complies with the lighting and warning device equipment rules promulgated by the department as set forth in Subchapter D, §14.52 of this title (relating to standards).

Training agency-The twenty Regional Education Service Centers in the state of Texas approved by the department to teach the School Bus Driver Training Program.

Training certificate-A document issued under the authority of the director to a person indicating successful completion of the School Bus Driver Training Program approved by the department.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613572

Dudley M. Thomas

Director



Subchapter B. School Bus Driver Eligibility and Application Procedures

37 TAC §§14.11–14.14

The new sections are adopted pursuant to Texas Civil Statutes, Article 6687b, §5(a), re-codified as Texas Transportation Code, §521.022 which require the Texas Department of Public Safety to adopt rules and procedures necessary for determining school bus driver employment eligibility and school bus driver training program requirements.

§14.14. Minimum Driving Record Qualifications.

(a) The following standards have been established by the department as minimum requirements to be met by each person seeking to become employed or to remain employed as a school bus driver to drive any motor vehicle while in use as a school bus for the transportation of students:

(1) the driver's license record of each school bus driver shall be evaluated at least annually by the employer or designated person. Schools may request a "Complete" driver history from the department. Penalty points shall be assessed for those entries which appear in the accompanying tables of traffic law violations and accident involvements according to the School Bus Driver's Driving Record Evaluation, Figure 3: §14.1(3) of this title (relating to Appendix). Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he/she may become qualified; and

(2) an applicant for employment as a commercial motor vehicle driver must disclose to the employer any violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted and any serious traffic violations of which the applicant was convicted during the ten years preceding the date the application is submitted, as well as any suspension, revocation, or cancellation of any driving privilege that resulted from the conviction. For verification purposes, it is strongly recommended that driving records be secured for all new applicants that have held an out-of-state driver's license within the past seven years. These records should include all convictions which would result in mandatory suspension of a driver's license in Texas according to Table IV and Table V of Figure 3: §14.1(3) of this title (relating to Appendix).

(b) In determining a person's eligibility to drive a school bus, the following standards shall apply in assessing penalty points for convictions of traffic law violations and accident involvements appearing on his/her current driving record:

(1) convictions for violations included in Table I, Figure 3: §14.1(3) of this title, shall be assessed one penalty point for each occurrence if the date of the violation is within three years of the date of the driving record evaluation;

(2) accident involvements included in Table II, Figure 3: §14.1(3) of this title, shall be assessed two penalty points if the date

of occurrence is within three years of the date of the driving record evaluation. Persons disqualified because of penalty points assessed for accident involvement shall be notified of their right to a review;

(3) convictions for violations included in Table III, Figure 3: §14.1(3) of this title, shall be assessed three penalty points for each occurrence if the date of the violation is within three years of the date of the driving record evaluation;

(4) convictions for violations included in Table IV, Figure 3: §14.1(3) of this title, shall be assessed ten penalty points for each occurrence if the date of the violation is within seven years of the date of the driving record evaluation; and

(5) convictions for violations included in Table V, Figure 3: §14.1(3) of this title, shall be assessed ten penalty points for each occurrence if the date of the violation is within five years of the date of the driving record evaluation.

(c) The assessment of penalty points is not required for any entry which does not appear in the alphabetized table listings. However, any entry which is deemed comparable to one appearing in these tables should be assessed an equivalent number of penalty points.

(d) Appeal procedure for assessment of points due to accident involvement. Two points should automatically be assessed for an accident involvement occurring within three years of the date of the driver record evaluation which appears on the driver history record. Applicants assessed two points for accident involvements appearing on their driving record may request a review by the person designated by the employer to determine if they were a cause of the accident(s). The applicant must identify the specific accident involvement(s) to be reviewed. Request a copy of the accident report(s) on the approved form, *Request for Copy of Peace Officer's Accident Report* (ST-90). Mail the form to Accident Records Bureau, Texas Department of Public Safety at the address listed on the form. The requested reports will be provided on a priority basis without charge. The designated person shall review information pertinent to the accident(s), which should include the *Texas Peace Officer's Accident Report* (ST-3). In examining this report, consideration of such items as Charges Filed, Investigator's Narrative of What Happened, Diagram, and Factors/Conditions Contributing to the Accident should assist in making a determination as to whether or not the assessment of penalty points is appropriate. If the designated person reviews the accident report and any other pertinent information and determines that the applicant was not a cause of the accident(s), no penalty points shall be assessed. If the designated person determines that the applicant was a cause of the accident(s), two penalty points shall be assessed for each accident. The decision of the employer is final.

(e) Appeal procedure for administrative disqualification.

(1) Ten penalty points should automatically be assessed for any of the code entries listed in Table V, Figure 3: §14.1(3) of this title, that appear on the driver's license record of a school bus driver. Any persons disqualified from driving a school bus on the basis of penalty points assessed from an Administrative License Revocation (ALR) suspension or disqualification appearing on their driver's license record and who has properly filed an appeal, may request the points be withdrawn pending appeal of the ALR judge's decision.

(2) The school bus driver must provide to the employer or designated person a file-stamped copy of the appeal filed with

the State Office of Administrative Hearings and Texas Department of Public Safety. Once the designated person has confirmed that an appeal has been properly filed, the penalty points assessed for an ALR suspension or disqualification shall be removed from the applicant's driving record pending the final decision of the appeal if:

(A) the applicant's driver's license has not been suspended as a result of any alcohol-related or drug-related enforcement contact (as defined in the Texas Transportation Code, §524.001) during the five years preceding the date of the person's arrest; and

(B) the person has not been convicted during the ten years preceding the date of the person's arrest of an offense under:

(i) Texas Civil Statutes, Article 67011-1, as that law existed before September 1, 1994;

(ii) Texas Penal Code, §19.05(a)(2), as that law existed before September 1, 1994;

(iii) Texas Penal Code, §49.04; or

(iv) Texas Penal Code, §49.07 or §49.08, if the offense involved the operation of a motor vehicle.

(3) A withdrawal of the penalty points under this table is effective for not more than ninety days after the date the appeal petition is filed. On the expiration of the ninetieth day, the person designated by the employer shall assess ten penalty points. An extension of the ninety-day period or additional time shall not be allowed.

(4) If, in the final decision of the court, the driver's license is not suspended/disqualified, no penalty points shall be assessed. If, in the final decision of the court, the driver's license is suspended or disqualified, ten penalty points shall be assessed for each suspension or disqualification arising from a separate arrest.

(5) Credit for concurrent suspension arising from same alcohol-related incident. If a criminal conviction occurs that arises out of the same arrest as the ALR suspension/disqualification, the penalty points shall be assessed for the Table IV criminal conviction only. Any disqualification time already served under the Table V disqualification will be credited to the Table IV disqualification time period. The total disqualification period arising out of the same arrest shall not be longer than seven years. This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. Issued in Austin, Texas on September 9, 1996. Dudley M. Thomas Director Texas Department of Public Safety 10

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613573

Dudley M. Thomas
Director

Texas Department of Public Safety

Effective date: October 7, 1996

Proposal publication date: June 11, 1996

For further information, please call: (512) 424-2890



Subchapter C. School Bus Driver Training Program

37 TAC §§14.31-14.36

The new sections are adopted pursuant to Texas Civil Statutes, Article 6687b, §5(a), re-codified as Texas Transportation Code, §521.022, which require the Texas Department of Public Safety to adopt rules and procedures necessary for determining school bus driver employment eligibility and school bus driver training program requirements.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613574

Dudley M. Thomas
Director

Texas Department of Public Safety

Effective date: October 7, 1996

Proposal publication date: June 11, 1996

For further information, please call: (512) 424-2890



Subchapter D. School Bus Lighting and Warning Device Equipment

37 TAC §14.51, §14.52

The Texas Department of Public Safety adopts new §14.51 and §14.52 concerning lighting and warning device equipment specifications for school buses, with changes to the proposed text as published in the June 11, 1996, issue of the *Texas Register* (21 TexReg 5255).

The justifications for the new sections will be to clearly identify a school bus used on a route and specify minimum uniform lighting and warning device equipment standards. This will allow other drivers to recognize the school bus and stop, as required by statute, for a school bus loading or unloading students and provide for the safety of students on a street immediately before and after riding a school bus. Upon further review of the definition of "School Bus", as defined in §14.51, the department has determined that additional clarification is necessary to define the term. In addition, the General Services Commission (GSC) recently published its "Specifications for Texas School Buses 070-SB-97" which became effective September 1, 1996. Upon review of the publication, a decision was made by the department to conform with the current GSC, "Texas School Bus Specifications". In order to comply with the specifications that GSC has published, the department amends §14.52(2)(B)(iv) and (2)(D)(i). The department withdraws (2)(D)(iii) on the basis that the Texas Transportation Code, §502.201 addresses the identification markings required on a vehicle exhibiting exempt license plates.

The new sections are necessary to implement the provisions of Senate Bill 1, 74th Legislature, 1995; to be codified as Texas Civil Statutes, Article 6701d, §131(d), recodified as Texas Transportation Code, §547.102. This statute authorizes

the Texas Department of Public Safety to adopt standards and specifications that apply to lighting and warning device equipment required for a school bus in order to enable school administrators to establish and operate a safe and efficient school bus transportation system and make the school bus a highly identifiable vehicle on the road.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Transportation Code, §547.102, which authorizes the Texas Department of Public Safety to adopt standards and specifications that apply to lighting and warning device equipment required for a school bus in order to enable school administrators to establish and operate a safe and efficient school bus transportation system and make the school bus a highly identifiable vehicle on the road.

§14.51. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Bus-A motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the driver.

Commission-The General Services Commission of the State of Texas.

Department-The Texas Department of Public Safety.

Director-The director of the Texas Department of Public Safety.

Passenger car-A motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the driver.

School bus-A bus owned or leased by a school district or county transportation system, or a bus operated by a private contractor under contract with a school district or county transportation system to transport students from school to home, or from home to school, or in connection with school-related activities, excluding a bus used in an urban area by a common carrier to transport students or a bus designed to accommodate more than 10 and less than 16 passengers (including the driver) which is used to transport students on school-related activities only, that:

(A) on the date of manufacture, complied with the current requirements provided in the Texas School Bus Specifications handbook as developed, adopted, and published under authority of Texas Civil Statutes, Article 6701d, §105(a) recodified as Texas Transportation Code, §547.701; or

(B) meets the statutory equipment requirements of a school bus in the Texas Transportation Code §547.607 and §547.701, including a fire extinguisher, convex mirror, and four alternately flashing red lights, and complies with the lighting and warning device equipment rules promulgated by the department as set forth in §14.52 of this title (relating to Lighting and Warning Device Equipment).

§14.52. Lighting and Warning Device Equipment.

This rule applies to all public schools and county transportation systems that own or lease school buses and those private contractors that lease school buses or contract with a public school or county transportation system to transport students in school buses. At a minimum, a school bus:

(1) which is designed to accommodate 16 or more passengers, including the driver, shall maintain all lighting and warning device equipment requirements as set forth in the General Services Commission handbook, *Texas School Bus Specifications*, which was current during the year of the school bus' manufacture; or

(2) which is used to transport students to or from school, not including school related activities, and is designed to accommodate more than 10 passengers and less than 16 passengers, including the driver, must meet the following requirements, in addition to all applicable federal and state statutes and regulations in effect on the date of manufacture:

(A) Lamps and Signals. Each bus shall be furnished with the lamps as listed in clauses (i)-(v) of this subparagraph. See School Bus Manufacturer's Institute (SBMI) Standard Number 001:

(i) Alternately Flashing Signal Lamps. Each school bus shall be equipped with four red warning signal lamps, working in an automatic non-sequential integrated system. The signal lamps shall conform to the design, installation, location, and operating requirements as stated in Paragraph S4.1.4. of the Federal Motor Vehicle Safety Standards (FMVSS) Number 108.

(I) Each school bus shall be equipped with a system of four red signal lamps designed to conform to the Society of Automotive Engineers (SAE) Standard J887, "School Bus Red Signal Lamps," July 1964.

(II) Red lamps shall be installed in accordance with SAE Standard J887, except that:

(-a-) The system shall be wired so that the red signal lamps automatically activate when the bus entrance door is opened.

(-b-) The lamps shall be wired independently and not wired through the ignition switch. This will allow removal of the ignition key without affecting operation of the alternately flashing four warning signal lamps.

(III) Band. Each red lamp shall have a minimum 3-inch black band around the lamp. The color of this band shall be black enamel (Color Number 17038, Black Enamel of Federal Standard 595a). If it is not possible to provide a 3-inch band around the lamps, the manufacturer will then provide a band as wide as possible. Any visor or hood used to shade the lights and improve visibility will not interfere with the intensity and photometric performance of the warning lights (see SBMI Standard Number 001).

(IV) Mounting. If exterior panels are cut to provide an opening for installation of flush-mounted signal lamps, the lamps must have a closed cell sponge flange gasket with a minimum thickness of 3/16-inch. The gasket shall be the full width of the flange on the lamp. Proper installation of the lamps shall be made in order to prevent seepage of moisture into the opening. Mounting of lamps for vehicles designed to transport more than 10 and less than 16 passengers (including the driver) shall be accomplished with lights or strobes securely mounted to the roof of the vehicle as widely spaced laterally as practicable which are sealed from water infiltration and do not interfere with the operation of any access door.

(V) Operating Instructions. Complete instructions for the detailed operation of the warning signal lamp system shall be furnished with each school bus.

(ii) Backup Lamps. The color, requirements, and mounting of backup lamps shall be in accordance with FMVSS Number 108, except two backup lamps are required by Texas specifications.

(iii) Interior, Stepwell and Service Door Lamps. A minimum of two interior dome lamps shall be installed to properly and adequately illuminate the entire aisle and emergency passageway. The stepwell or service door entrance shall be illuminated by a separate lamp activated by opening the service door. The stepwell or service door entrance lamp shall have a metal bezel. The fixtures shall have white or clear plastic lenses attached to metal receptacles. The lamps shall be designated for a 12-volt electrical system and shall have installed a minimum 15 candlepower lamp bulb. The fixtures shall be mounted so as to provide adequate illumination of the passenger and driver's compartment, spacing of the lamp fixtures shall be the option of the bus body manufacturer.

(iv) Operating Units and Flashers. The operating units and flashers for turn signals and vehicular hazard warning signals shall meet the requirements of FMVSS Number 108.

(v) Turn Signal/Hazard Warning Lamps. The quantities, colors, requirements, and mountings of turn signal/hazard warning lamps shall be in accordance with FMVSS Number 108.

(B) Warning Devices Including Colors and Lettering. Each bus shall be equipped with:

(i) Triangular Warning Devices. Each school bus shall be equipped with three triangular warning devices meeting the requirements of FMVSS Number 125. The devices shall be packed three per metal or heavy duty plastic box, or they may be individually packed in metal or heavy duty plastic boxes with the three boxes contained within a carrier. Warning devices shall be securely mounted in the driver's compartment. Triangular warning devices furnished shall be approved by the Texas Department of Public Safety.

(ii) Color. A first quality black enamel (Color Number 17038 of Federal Standard Number 595a) or decals shall be used for lettering and trim. The properties of the black enamel shall be equal to those of the finish coat enamel. Pressure-sensitive tape or decals are acceptable for trim or lettering (e.g., EMERGENCY DOOR, EMERGENCY EXIT, SCHOOL NAME LETTERING, etc. signs) provided they are made from Faison R 200, 3M Series 180, or approved equal material. Exit signs and lettering shall be in compliance with FMVSS Number 217.

(iii) Body Exterior Color. The exterior of the complete bus except as provided herein, shall be finished in school bus yellow (Color Number 13432 of Federal Standard Number 595a). The bus shall have two horizontal contrast lines approximately four inches wide which simulate the rub rails of a standard bus. The color of the contrast lines shall be from a first quality black enamel (Color Number 17038 of Federal Standard Number 595a). The contrast lines shall be positioned just below the window line, and between eight and twelve inches above the lowest portion of the body panel. The hood may be coated with non-reflective school bus yellow paint. The school bus roof may be painted white. The white paint on the roof shall extend from the back of the front cap to the front of the rear cap and from a point on each side of the bus which is no lower than the top of the windows and no higher than the start of the roof cur-

vature. The white paint shall be the same quality as the paint on the remainder of the school bus.

(iv) School Bus Lettering. The school bus bodies shall have the words "SCHOOL BUS" in neat, clearly defined block letters on the front, rear, and on both sides of the bus body using decals or with black paint (Color Number 17038 of Federal Standard Number 595a). The letters shall be 8 inches high and shall have 1 inch wide strokes, respectively. The words "SCHOOL BUS" shall be at the same level on each side of the bus (i.e., same height above bottom of skirt). Body shall bear the words "SCHOOL BUS" in black letters at least 8 inches high on both the front and rear of body or on signs mounted between the flashing red lights and securely mounted to the roof. Lettering shall be placed as high as possible without impairment of its visibility. Lettering shall conform to "Series B" of Standard Alphabets for signs. "SCHOOL BUS" lettering shall have a reflective background, or as an option, may be illuminated by backlighting.

(v) Emergency Exit Lettering. The emergency exits shall be marked "EMERGENCY DOOR" or "EMERGENCY EXIT" both on the outside and/or on the inside in compliance with FMVSS 217. All applicable requirements of FMVSS 217 relating to instructions, outlining, and markings shall be met.

(C) Accessories. Required on all buses:

(i) Backup Alarm. An automatic, audible backup warning alarm meeting the requirements of Type C, 97 db (A), SAE J994b (except for 12 volt system) shall be installed behind the rear axle.

(ii) Stop Arm. A school bus stop arm meeting SAE J1133 and the following requirements shall be provided:

(I) Design. The sign shall be octagon-shaped, constructed of zinc-coated steel or aluminum. It shall have a minimum 1/2-inch wide white border and the word "STOP" in white letters at least 6 inches high against a red background on both sides. The letters, border and background shall be of reflective materials meeting Department of Transportation (DOT), Federal Highway Administration (FHWA) FP-85. Double-faced red, alternately flashing lamps, one each at the top and bottom (visible from each side of the structure) shall be connected to, and flash with the required school bus red flashing signal lamp circuit when the arm is extended. The arm mechanism may be activated by air pressure, electricity, or by vacuum.

(II) Mounting. The stop arm shall be installed on the left side of the school bus near the front cowl section.

(D) Accessories. Optional accessories on buses include:

(i) Reflective Material. Buses equipped with reflective material shall meet the following requirements. The material shall be automotive engineering grade or better, shall meet the initial reflectance values in DOT FHWA FP-85 and shall retain at least 50% of those values for a minimum of six years. Reflective materials and markings shall be installed in the following locations:

(I) Front and/or rear bumper may be marked diagonally 45 degrees down to centerline of pavement with 2-inch plus or minus 1/4-inch wide stripes of non-contrasting reflective material.

(II) Rear of school bus body shall be marked with strips of reflective National School Bus Yellow (NSBY) material to outline the perimeter of the back of the school bus, using material which conforms with the requirements of FMVSS 571.131. The perimeter marking of rear emergency exits per FMVSS 217 and/or the use of reflective "school bus" signs partially accomplish the objective of this requirement. To complete the perimeter marking the back of the bus, strips of at least 1-3/4 inch reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

(III) "SCHOOL BUS" signs, if not lighted design, shall be marked with reflective National School Bus Yellow material comprising background for lettering of the front and/or rear "SCHOOL BUS" signs.

(IV) Sides of bus body shall be marked with reflective National School Bus Yellow Material at least 1-3/4 inches in width, extending the length of the bus body and located (vertically) as close as practicable to the beltline.

(ii) Strobe Light. Buses equipped with a white flashing strobe light shall meet the following requirements:

(I) Design. The lamp shall have a single clear lens emitting light flashing 360 degrees around a vertical axis. The light source shall be a minimum of 50 candlepower and flash 80-120 times per minute. The base of the lamp shall be metal or approved equal and installed by a method which seals out dust and moisture. A manual switch is required for operation and a pilot light to indicate when the light is in operation shall be included. Wiring shall be installed inside the bus walls.

(II) Mounting. The strobe light shall be permanently installed near the centerline on the school bus roof and not more than one-third of the body length forward of the rear edge of the bus roof. It shall not extend above the roof more than 6-1/2 inches. This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. Issued in Austin, Texas on September 9, 1996. Dudley M. Thomas Director Texas Department of Public Safety

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 9, 1996.

TRD-9613576

Dudley M. Thomas

Director

Texas Department of Public Safety

Effective date: October 7, 1996

Proposal publication date: June 11, 1996

For further information, please call: (512) 424-2890

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 79. Legal Services

Subchapter E. Advisory Committee

40 TAC §79.403

The Texas Department of Human Services (DHS) adopts an amendment to §79.403, concerning mandated advisory committees and committees established by the Texas Board of Human Services in its Legal Services chapter, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7364). The text will not be republished.

The justification for the amendment is to abolish the department's rule on the Advisory Committee on Child Care Programs.

The amendment will function by ensuring that the Advisory Committee on Child Care Programs will be able to continue to support child care staff and programs transferred to the Texas Workforce Commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 44, which provides the department with the authority to administer public assistance programs and federal and state day care programs.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 17, 1996.

TRD-9613596

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: October 8, 1996

Proposal publication date: August 6, 1996

For further information, please call: (512) 438-3765



Part III. Texas Commission on Alcohol and Drug Abuse

Chapter 148. Facility Licensure

Subchapter B. Facility Management

40 TAC §148.118

The Texas Commission on Alcohol and Drug Abuse adopts new §148.118 concerning training requirements relating to abuse, neglect, and unprofessional or unethical conduct, without changes to the proposed text as published in the July 16, 1996, issue of the *Texas Register* (21 Tex Reg 6614).

The new section is being adopted to incorporate into the rules an interagency memorandum of understanding between the

commission, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation.

The rules describe training requirements relating to abuse, neglect, and unprofessional or unethical conduct.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Health and Safety Code, §464.009, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules for licensing chemical dependency treatment facilities.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613632

Mark S. Smock

Deputy for Finance and Administration

Texas Commission on Alcohol and Drug Abuse

Effective date: October 9, 1996

Proposal publication date: July 16, 1996

For further information, please call: (512) 349-6609



Chapter 150. Counselor Licensure

40 TAC §§150.3, 150.31-150.33, 150.36

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §§150.3; 150.31-150.33; and 150.36 concerning definitions, licensure application; requirements for licensure, background investigation, and the licensure examination, without changes to the proposed text as published in the July 30, 1996, issue of the *Texas Register* (21 Tex Reg 7229).

Section 150.3 defines terms used in the chapter. The definition of applicant has been revised to require a complete application packet, and a new definition for application has been added. The definition for approved practicum provider reflects that providers will be approved directly by the commission and ensures that providers will maintain International Certification and Reciprocity Consortium (ICRC) standards. A new definition is also adopted for ICRC.

Amendments to §150.31 change the requirements for licensure application. A complete application packet must be submitted including all of the documentation required for testing. Incomplete packets will be returned. Applicants are responsible for collecting and maintaining documentation until they are ready to take the licensure examination.

Section 150.32 defines the requirements for licensure. New language has been added to ensure that education and practicum hours are compatible with ICRC standards. Case presentations

are submitted to the test administrator instead of to the commission, and applicants exempt from education and practicum hours must submit an official college transcript. Also, applicants must complete the 270 educational hours before accumulating any hours of supervised work experience. This ensures that trainees have the basic knowledge needed to perform effectively and benefit from the work experience.

Section 150.33 is revised to show the commission no longer conducts background investigations when an individual submits the initial application for licensure. This amendment makes the rule consistent with current practice.

The amendments in §150.36 (relating to Examination) allow an applicant to take the oral examination before completing the required 4,000 hours of supervised work experience, explains that examinees who fail the examination may receive an analysis of their performance only when that information is available to the commission, and clarifies limits on re-examination. The amendment is adopted to allow applicants to test when they are ready and make full use of examination opportunities, to indicate that the commission may not have access to information about an examinee's test results, and to avoid confusion about the number of times a person may re-take the examination. Wording has also been revised to reflect that the commission will no longer accept application packets unless an applicant is ready to take the examination. In addition, information about testing opportunities will be distributed through education providers, practicum providers, and clinical training institutions; the commission will not mail application packet to every applicant before each test cycle. The applicant is responsible for obtaining test information and submitting a letter of intent to take the examination.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Civil Statutes, Article 4512o, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish procedures for the licensure of chemical dependency counselors.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613633

Mark S. Smock

Deputy for Finance and Administration

Texas Commission on Alcohol and Drug Abuse

Effective date: October 9, 1996

Proposal publication date: July 30, 1996

For further information, please call: (512) 349-6609



TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

Exempt Filing Notification Pursuant to the Insurance Code
Chapter 5, Subchapter L, Article 5.96

PROPOSED

The Commissioner of Insurance, at a public hearing under Docket Number 2253 scheduled for October 31, 1996 at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a petition filed by United Services Automobile Association (USAA). The USAA petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to amend Rate Section IV., Rule 77.A.3., Exception, by changing the rating factors for high value motorhomes. USAA's petition (Reference Number A-1295-42) was filed on December 8, 1995.

USAA's petition explains that the exception set forth in the Manual's Rate Section IV., Rule 77.A.3. requires use of rating factors for motorhomes that result in premiums that make "no economic sense" in some instances. For example, the premium required for a \$230,000 motorhome is much higher than the premium for a \$350,000 motorhome, according to an exhibit attached to the petition. USAA asserts that for motorhomes valued at \$420,000 or higher, "an insurer would have to pay an insured for the privilege of providing coverage" on the vehicle. USAA is concerned that because of today's availability of motorhomes valued well in excess of \$200,000, some owners of high value motorhomes are probably having difficulty obtaining coverage in the regulated market.

USAA's petition, specifically in Exhibit B, proposes a solution to the problem by capping the rate factor reduction at the stated amount value of \$200,000 to "assure that increasing motorhome values above \$90,000 will result in increasing-not decreasing-premiums." The petition's Exhibit B also shows proposed revisions to rating factors for motorhomes valued from \$90,000 to \$199,999.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of

the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-1295-42).

Written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P. O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613870

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 23, 1996



The Commissioner of Insurance, at a public hearing under Docket Number 2254 scheduled for October 31, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt new and/or adjusted 1995-1997 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0996-37-I) was filed on September 19, 1996.

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the various model years of the listed vehicles.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0996-37-I).

Written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613871
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: September 23, 1996

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ADOPTED

The Commissioner of Insurance, at a public hearing under Docket Number 2240, on August 26, 1996, held at 10:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted amendments to the revised Texas Residential Property Statistical Plan (the "Plan") as proposed by the staff of the Texas Department of Insurance ("TDI"). Staff's petition proposing the amendments was filed with the Chief Clerk on July 15, 1996, and notice of the filing was published in the July 23, 1996 issue of the *Texas Register* (21TexReg 6899).

Staff requested consideration of five amendments to the Plan: (1) An amendment to note the designation of the Texas Insurance Checking Office (TICO) as the new statistical agent for residential property insurance in Texas and to indicate that transmittal forms which accompany data submissions must be submitted to TICO; (2) an amendment which deletes reporting requirements and instructions for the Foundation Exclusion endorsement and adds reporting requirements and instructions for the Tear Out endorsement; (3) an amendment which adds reporting requirements and instructions for the use of Property

Protection Plan policy forms and endorsements; (4) an amendment which adds reporting requirements and instructions for the use of new large deductibles and; (5) an amendment to drop the term "revised" from the title of the revised Texas Residential Property Statistical Plan.

The Commissioner adopted all of the amendments described previously at the August 26, 1996 public hearing.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.96, 5.97, 5.25, 5.28, 5.98 and 21.69. Articles 5.96 and 5.97 authorize the filing of this petition. Articles 5.25, 5.28, 5.98 and 21.69 authorize the action requested by Staff. Article 5.25 authorizes the Commissioner to designate an agent to gather, audit, and compile experience of insurers writing fire and allied lines. Article 5.28 authorizes the Commissioner to gather data the Commissioner deems appropriate in determining reasonable and appropriate rates for fire and allied lines. Article 5.98 authorizes the Commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 21.69 authorizes the Commissioner to contract with or designate an entity to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the Commissioner.

The amendments as adopted by the commissioner are filed with the Chief Clerk under Reference Number P-0796-30-I and are incorporated by reference by Commissioner's Order Number 96-1075.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Consistent with the Texas Insurance Code, Article 5.96(h), prior to the effective date of this action, TDI will notify all insurers writing residential property insurance.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 19, 1996.

TRD-9613756
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Effective date: October 17, 1996
For further information, please call: (512) 463-6327

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TABLES & GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as “Figure 1” followed by the TAC citation, “Figure 2” followed by the TAC citation.

Figure 1: 7 TAC 1.407(4)

Itemization of Amount Financed.

For contracts with regular
sales tax assessment:

Itemization of Amount Financed of	
Cash Price	\$ _____
Cash Downpayment	\$ _____
Deferred Downpayment	\$ _____
Trade-In Credit	\$ _____
Total Downpayment	(-) \$ _____
Unpaid Balance	*
of Cash Price	(=) \$ _____
Trade-In Payoff (if any)	
Paid to	(+) \$ _____
Unpaid Balance of Cash Price	
Plus Trade-In Payoff	(=) \$ _____
Itemized Charges	
State Sales Tax	\$ _____
Dealer's Inventory Tax	\$ _____
State Inspection	\$ _____
Documentary Fee	\$ _____
Deputy Service Fee	\$ _____
Title Fee	\$ _____
License Fee	\$ _____
Vehicle Insurance	\$ _____
Credit Insurance	\$ _____
GAP Insurance	\$ _____
Theft Protection Plan	\$ _____
Service Contract	\$ _____
Total Itemized Charges	(+) \$ _____
Amount Financed	(=) \$ _____
Finance Charge	\$ _____
<p>Taxes (other than dealer's inventory tax), title fee, license fee, and an state inspection fee (except for \$5.00 of each such inspection fee that will be retained by Seller) will be paid by Seller to government agencies. Dealer's inventory tax will be paid to Seller who will remit it to the appropriate Tax Assessor Collector. Documentary fee and deputy service fee will be retained by Seller. Vehicle insurance premiums, credit insurance premiums, and GAP insurance premiums will be paid by Seller to insurance companies. Other itemized charges, a portion of which may be retained by the Seller, are to be paid by Seller as follows:</p>	
Theft Protection Plan:	_____
Service Contract:	_____

For contracts with deferred
sales tax assessment:

Itemization of Amount Financed of	
Cash Price	\$ _____
Cash Downpayment	\$ _____
Deferred Downpayment	\$ _____
Trade-In Credit	\$ _____
Total Downpayment	(-) \$ _____
Unpaid Balance	
of Cash Price	(=) \$ _____
Trade-In Payoff (if any)	
Paid to	(+) \$ _____
Unpaid Balance of Cash Price	
Plus Trade-In Payoff	(=) \$ _____
Itemized Charges	
Dealer's Inventory Tax	\$ _____
State Inspection	\$ _____
Documentary Fee	\$ _____
Deputy Service Fee	\$ _____
Title Fee	\$ _____
License Fee	\$ _____
Vehicle Insurance	\$ _____
Credit Insurance	\$ _____
GAP Insurance	\$ _____
Theft Protection Plan	\$ _____
Service Contract	\$ _____
Total Itemized Charges upon which the Finance	
Charge is assessed	(+) \$ _____
Total Unpaid Balance Plus Itemized Charges	
Upon which the Finance	
Charge is assessed	(=) \$ _____
Total Sales Tax (Upon Which No Finance	
Charge is Assessed)	(+) \$ _____
Amount Financed	(=) \$ _____
Finance Charge (Not Assessed	
Upon Sales Tax)	\$ _____
<p>Taxes (other than dealer's inventory tax), title fee, license fee, and any state inspection fee (except for \$5.00 of each such inspection fee that will be retained by Seller) will be paid by Seller to government agencies. Dealer's inventory tax will be paid to Seller who will remit it to the appropriate Tax Assessor Collector. Documentary fee and deputy service fee will be retained by Seller. Vehicle insurance premiums, credit insurance premiums, and GAP insurance premiums will be paid by Seller to insurance companies. Other itemized charges, a portion of which may be retained by the Seller, are to be paid by Seller as follows:</p>	
Theft Protection Plan:	_____
Service Contract:	_____

Figure 2: 7 TAC 1.407(5)

Model clause for federal disclosure box.

For use with precomputed contracts using the sum of the monthly balances:

CREDITOR-SELLER		ADDRESS	
ANNUAL PERCENTAGE RATE <small>(The cost of your credit as a yearly rate)</small> %	FINANCE CHARGE <small>(The dollar amount the credit will cost you)</small> \$	AMOUNT FINANCED <small>(The amount of credit provided to you or on your behalf)</small> \$	TOTAL OF PAYMENTS (The amount you will have paid after you have made all payments as scheduled) \$
TOTAL SALE PRICE <small>(The total cost of your purchase on credit, including your down payment of \$ _____)</small> \$			

Your payment schedule will be:

Number of payments	Amount of payments	When payments are due

SECURITY: Seller will have a security interest in the purchased vehicle, and in all accessions thereto and proceeds therefrom.
LATE CHARGE: For any scheduled installment payment more than 15 days late Seller may assess a late charge of 5% of such payment, or, in the alternative, Seller may charge interest after maturity on any late installment payment at the rate of ____ % per annum.
PREPAYMENT: If you pay off early, you may be entitled to a refund.
ADDITIONAL INFORMATION: Buyer should refer to the Motor Vehicle Retail Installment contract for information about nonpayment, default, the right to accelerate the maturity of the contract, and prepayment.

Figure 3: 7 TAC 1.407(5)

Model clause for federal disclosure box. (Continued)

For use with true daily earnings method:

CREDITOR-SELLER		ADDRESS	
ANNUAL PERCENTAGE RATE (The cost of your credit as a yearly rate) <div style="text-align: right;">%</div>	FINANCE CHARGE (The dollar amount the credit will cost you) <div style="text-align: right;">\$</div>	AMOUNT FINANCED (The amount of credit provided to you or on your behalf) <div style="text-align: right;">\$</div>	TOTAL OF PAYMENTS (The amount you will have paid after you have made all payments as scheduled) <div style="text-align: right;">\$</div>
TOTAL SALE PRICE (The total cost of your purchase on credit, including your down payment of \$ _____) <div style="text-align: right;">\$</div>			

Your payment schedule will be:

Number of payments	Amount of payments	When payments are due	

SECURITY: Seller will have a security interest in the purchased vehicle, and in all accessions thereto and proceeds therefrom.

PREPAYMENT: If you pay off early, you will not have to pay a penalty.

ADDITIONAL INFORMATION: Buyer should refer to the Motor Vehicle Retail Installment contract for information about nonpayment, default, the right to accelerate the maturity of the contract, and prepayment.

Figure 4: 7 TAC 1.407(5)

Model clause for federal disclosure box. (Continued)

For use with hybrid earnings or scheduled installment earnings method:

CREDITOR-SELLER		ADDRESS		
ANNUAL PERCENTAGE RATE (The cost of your credit as a yearly rate)	FINANCE CHARGE (The dollar amount the credit will cost you)	AMOUNT FINANCED (The amount of credit provided to you or on your behalf)	TOTAL OF PAYMENTS (The amount you will have paid after you have made all payments as scheduled)	TOTAL SALE PRICE (The total cost of your purchase on credit, including your down payment of \$ _____)
%	\$	\$	\$	\$

Your payment schedule will be:

Number of payments	Amount of payments	When payments are due

SECURITY: Seller will have a security interest in the purchased vehicle, and in all accessions thereto and proceeds therefrom.

LATE CHARGE: For any scheduled installment payment more than 15 days late Seller may assess a late charge of 5% of such payment, or, in the alternative, Seller may charge interest after maturity on any late installment payment at the rate of _____ % per annum.

PREPAYMENT: If you pay off early, you will not have to pay a penalty.

ADDITIONAL INFORMATION: Buyer should refer to the Motor Vehicle Retail Installment contract for information about nonpayment, default, the right to accelerate the maturity of the contract, and prepayment.

Figure 5: 7 TAC 1.407(7)

Model clause for required physical damage insurance:

Physical damage insurance. Physical damage insurance, as indicated below, is required until the debt is paid in full. The Buyer has the option of furnishing the required coverage, either through existing policies of insurance that the buyer owns or controls or by obtaining equivalent coverage through any insurance company authorized to do business in Texas.

☐ \$ _____ Deductible Collision ☐ \$ _____ Deductible Comprehensive
☐ \$ _____ Fire & Broad Form Theft ☐ \$ _____ Combined Additional Coverage
☐ \$ _____ Other: _____

If the insurance is obtained from the Seller, the type, cost, and term of the initial policies of required insurance written in connection with this agreement against loss of or damage to the purchased vehicle will be shown below, based on rates in effect on the day of this agreement and information furnished by the Buyer.

	Insurance Company	Coverage	Term in Months	Premium
<input type="checkbox"/>	_____			
<input type="checkbox"/>	_____			

* An asterisk placed by an indicated insurance coverage means that insurance coverage is sold for a premium not fixed or approved by the Texas Department of Insurance, and the Buyer may cancel this insurance without charge for 10 days from the date of this contract and substitute the required insurance coverage either through existing policies of insurance or by procuring and furnishing equivalent insurance coverages.

Figure 6: 7 TAC 1.407(8)

Model clause for optional insurance coverages:

Optional coverages with physical damage insurance. If the Buyer has chosen this insurance, the premiums for the initial ____ month term are itemized below.

- ☐ \$ _____ Towing and Labor Costs ☐ \$ _____ Rental Reimbursement
☐ \$ _____ Other: _____

Optional insurance coverages.

Insurance Company	Coverage	Term in Months	Premium
<input type="checkbox"/>	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____
<input type="checkbox"/> Liability Insurance	\$ _____ per person \$ _____ property damage		\$ _____ per accident _____ months \$ _____ premium

I desire the optional coverages checked above.

(Buyer's Signature)

(Date)

The Buyer may obtain liability insurance from a person of the Buyer's choice. GAP insurance will reimburse the Buyer the difference, if any, between the proceeds of the Buyer's basic collision policy on the vehicle and the amount owed on the vehicle in the event the vehicle has been rendered a total loss.

Figure 7: 7 TAC 1.401-1.407(10)

Model clause for optional credit life and accident and health (disability) insurance:

Optional credit life and credit disability insurance. Credit life insurance and credit disability insurance are not required to obtain credit and will not be provided unless the Buyer desires to purchase the coverage and pay the additional premiums.

Check the appropriate box to indicate desired insurance coverage:

- ☐ Credit Life , one buyer \$_____ ☐ Credit Life, both buyers \$_____
- ☐ Credit Disability, one buyer \$_____ ☐ Credit Disability, both buyers \$_____
- ☐ I do not desire any credit insurance

Buyer's Signature: _____ Date: _____ Age: _____

Co-Buyer's Signature: _____ Date: _____ Age: _____

If credit life or credit disability is sold for a term of 121 months or longer, it is written at a premium or rate of charge not fixed or approved by the Texas Department of Insurance, and the Buyer may cancel the insurance without charge within 10 days from the date of this contract and furnish other equivalent coverage written by a company authorized to do business in Texas. Optional insurance may be canceled for a partial refund at any time.

Figure 1: 31 TAC §69.22(d)

Adjusted Criteria	
Score Range	Monetary Value
1-5.9	\$3
6-8.9	\$8
9-10.9	\$15.50
11-12.9	\$35.50
13-14.9	\$63.00
15-16.9	\$163.00
17-18.9	\$525.50
19-20.9	\$1,150.50
21-23.9	\$2,850.50
24-36.9	\$7,100.50

Figure: 34 TAC 3.180(2)(B)

Example:

Date	Deliveries to:	
	Buyer A	Buyer B
July 1	2,500 gal.	2,500 gal.
July 5	2,500 gal.	2,500 gal.
July 10	2,500 gal.	2,500 gal.
July 15	2,500 gal.	2,501 gal.
July 20	3,000 gal.	500 gal.

The sale on July 20 to Buyer B is taxable because the 10,000 gallon limit was exceeded on July 15. The sale to Buyer A on July 20 is not taxable because it is the sale that caused the 10,000 gallon limit to be exceeded and the delivery does not exceed 3,000 gallons.

DO NOT RETURN TO
Texas Department of Public SafetyTEXAS DEPARTMENT OF PUBLIC SAFETY
Medical Examination Report for School Bus DriversMeets DOT
Requirements**Authority for Data Collection:** V.T.C.S. Art. 6687b § 5(a) (recodified as Texas Transportation Code Annotated § 521.022)(Vernon 1996); Title 37 Texas Administrative Code § 14.12**Planned Use of Data:** Completion of required annual physical examination for any person to be employed to drive a motor vehicle while in use as a school bus for the transportation of pupils.**Instructions:**

- (1) The physical examination shall be performed and the results recorded (please print) by the examining physician in substantial accordance with the directions provided on the back of this form.
- (2) An applicant shall be disqualified for any of the impairments/disabilities indicated on the back of this form.
- (3) Upon completion of the examination the examining physician shall forward a copy of this form to the employing institution or company.

PLEASE DO NOT RETURN FORM TO APPLICANT.

Driver's Name _____ Address _____

Social Security Number _____ Date of Birth _____ Height _____ Weight _____ Sex _____

HEALTH HISTORY

Yes	No		Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Head or spinal injuries	<input type="checkbox"/>	<input type="checkbox"/>	Nervous stomach
<input type="checkbox"/>	<input type="checkbox"/>	Seizures, fits, convulsions, or fainting	<input type="checkbox"/>	<input type="checkbox"/>	Rheumatic fever
<input type="checkbox"/>	<input type="checkbox"/>	Extensive confinement by illness or injury	<input type="checkbox"/>	<input type="checkbox"/>	Asthma
<input type="checkbox"/>	<input type="checkbox"/>	Cardiovascular disease	<input type="checkbox"/>	<input type="checkbox"/>	Kidney disease
<input type="checkbox"/>	<input type="checkbox"/>	Tuberculosis	<input type="checkbox"/>	<input type="checkbox"/>	Muscular disease
<input type="checkbox"/>	<input type="checkbox"/>	Syphilis	<input type="checkbox"/>	<input type="checkbox"/>	Suffering from any other disease
<input type="checkbox"/>	<input type="checkbox"/>	Gonorrhea	<input type="checkbox"/>	<input type="checkbox"/>	Permanent defect from illness, disease, or injury
<input type="checkbox"/>	<input type="checkbox"/>	Diabetes	<input type="checkbox"/>	<input type="checkbox"/>	Psychiatric disorder
<input type="checkbox"/>	<input type="checkbox"/>	Gastrointestinal ulcer	<input type="checkbox"/>	<input type="checkbox"/>	Any other nervous disorder

If the answer to any of the above is yes, explain fully on an attached page.

I certify that the above information is correct and complete to the best of my knowledge and belief.

Driver's Signature and Date**PHYSICAL EXAMINATION:****General appearance and development:**

☐ Good _____

☐ Fair _____

☐ Poor _____

Vision:**For Distance:**

Right 20/ _____ Left 20/ _____

☐ Without corrective lenses

☐ With corrective lenses, if worn

Evidence of disease or injury:

Right _____ Left _____

Color Test:

Horizontal field of vision: _____

Right _____ Left _____

Hearing:

Right ear _____ Left ear _____

Disease or injury _____

Audiometric test:

(Complete only if audiometer is used to test hearing)

Decibel loss at 500 Hz _____

1,000 Hz _____

2,000 Hz _____

Throat: _____**Thorax:** _____**Heart:** _____

If organic disease is present, is it fully compensated? _____

Blood Pressure:

Systolic _____ Diastolic _____

Pulse:

Before exercise _____

Immediately after exercise _____

Lungs: _____**Abdomen:**☐ Scars ☐ Abnormal masses ☐ TendernessHernia: ☐ Yes ☐ No

If so, where? _____

Is truss worn? _____

Gastrointestinal:Ulceration or other diseases: ☐ Yes ☐ No**Genito-Urinary:**☐ Scars _____ ☐ Urethral discharge _____**Reflexes:**

Romberg _____

Pupillary _____ Light: R _____ L _____

Accommodation: Right _____ Left _____

Knee jerks:Right: ☐ Normal ☐ Increased ☐ AbsentLeft: ☐ Normal ☐ Increased ☐ Absent

Remarks: _____

Remarks: _____

Extremities:

Upper _____

Lower _____

Spine: _____**Laboratory and Other Special Findings:**

Urine: Spec. Gr. _____

Alb. _____

Sugar _____

Other Laboratory Data (Serology, etc.) _____

Radiological Data

Electrocardiograph _____

Controlled Substance Testing:

- ☐ Controlled substances test performed
- ☐ In accordance with 49 CFR 40 and 49 CFR 382
- ☐ Not in accordance with 49 CFR 40 and 49 CFR 382
- ☐ Controlled substances test NOT performed

CONTINUED ON REVERSE SIDE

Rev. 05/96

General Comments: _____

☐ CHECK HERE IF NOT QUALIFIED Reason for Disqualification: _____

Physician's Name (PRINT): _____ Physician's Signature: _____

Date of Exam: _____ Physician's Phone #: _____

**COMPLETE ONLY IF DRIVER FOUND QUALIFIED
MEDICAL EXAMINER'S CERTIFICATE**

I certify that I have examined:

Driver's Name (Print)

In accordance with 37 TAC 14.2, 14.11, 14.12,
and applicable State and Federal Motor
Carrier Safety Regulations 49 CFR 40 and 49
CFR 382 and with the knowledge of his/her duties,
I find him/her qualified under these regulations:

- ☐ Qualified only when wearing corrective lenses
- ☐ Qualified only when wearing a hearing aid
- ☐ Qualified only when transporting hearing impaired persons
- ☐ Medically unqualified unless accompanied by a waiver

A complete examination form for this person is on file
in my office at:

Address

Date of Exam Printed Name of Examining Doctor

License and State Signature of Examining Doctor

Signature of Driver

Address of Driver

**COMPLETE ONLY IF VISION TEST NOT PERFORMED
BY EXAMINING DOCTOR
VERIFICATION OF VISION EXAMINATION**

Date of Examination

Name of Ophthalmologist or Optometrist (Print)

Address of Ophthalmologist or Optometrist

Signature of Ophthalmologist or Optometrist

Return completed and signed form to:

Employing Institution / Company

Employer's Address

City State Zip

SEE INSTRUCTIONS ON NEXT PAGE

PHYSICAL QUALIFICATIONS FOR DRIVERS

A person is physically qualified to drive a motor vehicle if that person—

- (1) Has no loss of a foot, a leg, a hand, or an arm;
 - (2) Has no impairment in the use of a hand, an arm, a foot, a leg or any other structural defect or other limitation which is likely to interfere with his/her ability to control and safely operate a motor vehicle;
 - (3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;
 - (4) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;
 - (5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his/her ability to drive a motor vehicle safely ;
 - (6) Has no current clinical diagnosis of high blood pressure likely to interfere with his/her ability to operate a motor vehicle safely;
 - (7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with his/her ability to control and operate a motor vehicle safely;
 - (8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;
 - (9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his/her ability to safely operate a motor vehicle safely;
 - (10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;
 - (11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951. (This requirement does not apply to an otherwise qualified person with a hearing disability to be employed as a bus driver for vehicles used to transport hearing impaired students or persons.);
 - (12) Does not use a drug or other substance identified in the Drug Enforcement Administration's Schedule 1—Controlled Substances, an amphetamine, narcotic, or any other habit-forming drug; and
 - (13) Has no current clinical diagnosis of alcoholism.
- Drivers subject to 49 CFR Part 40 and Texas Motor Carrier Safety Reg. Part 382 shall be tested in compliance with the requirements of that part.

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a commercial motor vehicle. In the interest of public safety, the examining physician is required to certify that the driver does not have any physical, mental or organic defect of such a nature as to affect the driver's ability to safely operate a commercial motor vehicle.

The medical examination shall be performed by a doctor of medicine or osteopathy currently licensed to practice medicine by the Texas Board of Medical Examiners or the correlating state authority designated by statute to license, regulate, and discipline physicians in another state of the United States. A licensed ophthalmologist or optometrist may perform only that portion of examinations pertaining to visual acuity, field of vision and ability to recognize colors.

The physician must date and sign his/her findings upon completion of the examination and furnish the original to the motor carrier employer.

General information. The purpose of this medical examination is to detect the presence of physical, mental or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as completely as indicated on the attached form. History of certain defects may be cause for rejection, or indicate the need for making certain laboratory tests, or a further and more stringent examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he/she should be advised to take the necessary steps to ensure correction, particularly of those which if neglected, might lead to a condition likely to affect his/her ability to drive safely.

General appearance and development. Note marked overweight. Note any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illness. Both State and Federal Motor Carrier Safety Regulations provide that no driver shall use a narcotic or other habit-forming drug.

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while the applicant's visual acuity is being tested. If appropriate, indicate on the *Medical Examiner's Certificate* by checking the box, "Qualified only when wearing corrective lenses." In testing distance vision use 20 feet as normal. Record all vision as a fraction with 20 feet as the numerator and the smallest type read at 20 feet as the denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos, or strabismus, uncorrected by corrective lenses. Monocular drivers are not qualified to operate commercial motor vehicles under existing State

of Texas Motor Carrier Safety Regulations, unless granted a waiver.

If the driver habitually wears contact lenses or intends to do so while driving, there should be sufficient evidence to indicate that he/she has good tolerance and is well adapted to their use. The use of contact lenses should be noted on the record.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz.

Throat. Note evidence of disease, irreparable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a motor vehicle.

Thorax-heart. Stethoscopic examination is required. Note murmurs and arrhythmias and any past or present history of cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

Blood pressure. Record with either a spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a motor vehicle.

Lungs. If any lung disease is detected, state whether active or arrested. If arrested, give your opinion as to how long it has been quiescent.

Gastrointestinal system. Note any diseases.

Abdomen. Note wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by a truss.

Abnormal masses. If present, note location, if tender, and whether or not the applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced and the suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Genito-urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and State public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumin-urea in the urine or other findings indicative of health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant. An examination for scars and urethral discharge is required only when findings so indicate.

Neurological. If positive Rhomberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when the foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

Extremities. Carefully examine upper and lower extremities. Record the loss or impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand or finger deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of any impairment or structural defect which may interfere with the driver's ability to operate a motor vehicle safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or diseases, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiological and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

Recto-genital studies. Diseases or conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory and other special findings. Urinalysis is required, as well as such other tests as the medical history findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other tests as deemed advisable may be ordered by the examining physician.

Diabetes. If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle. If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemic drug and diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

Controlled Substances Testing If a test for controlled substances is performed as part of the medical examination, the physician is to check the box next to the statement, "Controlled substances test performed." If a controlled substances test is performed under the requirements of 49 CFR Part 40 and 49 CFR Part 382, then the physician must also check the box next to the statement, "in accordance with 49 CFR Part 40 and 49 CFR Part 382" and must obtain information that the result of such test were negative prior to certifying that the driver is otherwise medically qualified. If a controlled substance test is performed but not in accordance with 49 CFR Part 40 and 49 CFR Part 382, the physician must also check the box next to the statement, "not in accordance with 49 CFR Part 40 and 49 CFR Part 382" and ensure that the results of the test were negative prior to certifying that the driver is otherwise medically qualified.

TEXAS DEPARTMENT OF PUBLIC SAFETY
Request for Special Consideration
of
Medical Disqualification as a School Bus Driver

Authority for Data Collection: Vernon's Texas Civil Statutes, Article 6687b § 5(a) (recodified as Texas Transportation Code Annotated § 521.022 (Vernon 1996); Title 37, Texas Administrative Code, Section 14.13.

Planned Use of Data: Application for waiver of medical disqualification to operate a school bus for the current school year.

Instructions: Please read carefully and follow all directions given below for requesting special consideration for a waiver of medical disqualification for driving a school bus. For assistance, please contact the School Transportation Unit at (512) 424-5732.

In determining a driver's ability to safely operate a school bus, primary concern must always be given to the safety and welfare of the children being served. In addition to properly performing the driving task, a school bus driver must be physically and mentally able to effectively control his or her passengers and deal appropriately with any emergency or other situation that may arise.

The Texas Department of Public Safety form entitled "**Medical Examination Report for School Bus Drivers**" lists those physical and mental conditions for which the examining physician is directed to disqualify an applicant. Any applicant so disqualified may request special consideration from the Director of the Texas Department of Public Safety, or designee, for a waiver of the medical disqualification, and a copy of this completed form *must* accompany any such request.

The Texas Medical Advisory Board (Texas Department of Health) form entitled "**Release Authorization for School Bus Drivers**", properly completed and signed by both the applicant and the examining physician, *must* also accompany each request for special consideration (*see form on the reverse side of this sheet and duplicate as needed*).

In requesting special consideration, the applicant *must* submit in writing to the Director or designee clear and convincing evidence supporting that his or her functions are not impaired to such an extent as to reduce the applicant's physical and mental capabilities to safely operate a school bus or endanger the safety and welfare of school children. The Director or designee may require that the applicant submit additional supporting evidence or other related information.

The Director or designee shall forward the request for special consideration, along with all supporting evidence/documentation submitted by the applicant, to the Texas Medical Advisory Board for official review and recommendation/opinion.

Following receipt of the Texas Medical Advisory Board's recommendation, the Director or designee shall consider the findings and may grant or deny the applicant's request for special consideration. In no event will the Director or designee grant a request for special consideration in the absence of a report or statement from a qualified physician (licensed doctor of medicine or osteopathy) indicating that the applicant is clearly able to adequately perform the functions required of a school bus driver. A period of two to three weeks should be allowed for processing each request for special consideration.

TEXAS MEDICAL ADVISORY BOARD

Release Authorization for School Bus Drivers

(for use when requesting review)

TO SCHOOL BUS DRIVER APPLICANT:

I hereby authorize Dr. _____ to give any examination he/she deems necessary for the purpose of determining my fitness to operate a school bus for the transportation of school pupils. I also authorize any other physicians who have attended me, or any hospital or clinic in which I may have been treated, to give the Texas Department of Health any information they may request concerning my condition.

I understand that this authorization includes permission for the Texas Department of Health to have this information reviewed by the Medical Advisory Board for the purpose of giving a medical opinion on my physical and/or mental capabilities to safely operate a school bus.

I also understand that I am to pay any professional fees or charges connected with this examination.

<p>NOTE: Physicians signature is required as acknowledgement that he/she has completed medical examination report</p> <p>_____ Printed Name of Physician</p> <p>_____ Signature of Physician</p> <p>_____ State Board Number Specialty</p>	<p>_____ Printed Name of Applicant</p> <p>_____ Mailing Address</p> <p>_____ City State Zip Code</p> <p>_____ (Area Code) Daytime Phone Number</p> <p>_____ Name of Employing School District</p> <p>_____ Signature of Applicant</p> <p>_____ Date</p>
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IMPORTANT ! Please send the completed original of this authorization form and the Texas Department of Public Safety form entitled "Medical Examination Report for School Bus Drivers" together with any supporting evidence/information to:

Texas Department of Public Safety
School Bus Transportation - DL & CS
PO Box 4087
Austin, Texas 78773-0001

SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION

The provisions of Vernon's Civil Statutes, Article 6687b, Section 5(a), recodified as the Texas Transportation Code Annotated § 521.022 (Vernon's 1996) and the Texas Education Code Annotated § 34.007 (Vernon's 1996) require that a driver record check be made with the Texas Department of Public Safety (DPS) on all school bus drivers prior to employment. Their driving records must be acceptable according to standards developed by the DPS. In accordance with this statutory responsibility, the following standards have been established by the Texas Department of Public Safety rule (Title 37, Texas Administrative Code, § 14.14) as *minimum* requirements to be met by each person seeking to be employed or to remain employed as a school bus driver to drive any motor vehicle while in use as a school bus for the transportation of pupils:

The driver's license record of each school bus driver shall be evaluated *at least annually*, with penalty points assessed for those entries which appear in the accompanying tables traffic law violations and accident involvements. Any person who has accumulated ten (10) or more penalty points shall be considered ineligible to transport pupils until such time as he/she may become qualified.

An applicant for employment as a commercial motor vehicle driver must disclose to the employer any violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the three (3) years preceding the date the application is submitted and any serious traffic violations of which the applicant was convicted during the ten (10) years preceding the date the application is submitted, as well as any suspension, revocation, or cancellation of any driving privilege that resulted from the conviction. For verification purposes, it is strongly recommended that driving records be secured for *all new* applicants that have held an out-of-state drivers license within the past seven (7) years. These records should include all convictions which would result in mandatory suspension of a driver's license in Texas (see Table IV and V for a complete listing of entries).

In determining a person's eligibility to drive a school bus, the following standards shall apply in assessing penalty points for convictions of traffic law violations and accident involvements appearing on his/her current driving record:

Convictions for violations included in Table I shall be assessed one (1) penalty point for each occurrence if the date of the violation is within three (3) years of the date of the driving record evaluation.

Accident involvements included in Table II shall be assessed two (2) penalty points if the date of occurrence is within three (3) years of the date of the driving record evaluation. Persons disqualified because of penalty points assessed for accident involvement shall be notified of their right to a review (see Table II for review procedure).

Convictions for violations included in Table III shall be assessed three (3) penalty points for each occurrence if the date of the violation is within three (3) years of the date of the driving record evaluation.

Convictions for violations included in Table IV shall be assessed ten (10) penalty points for each occurrence if the date of the violation is within seven (7) years of the date of the driving record evaluation.

Convictions for violations included in Table V shall be assessed ten (10) penalty points for each occurrence if the date of the violation is within five (5) years of the date of the driving record evaluation.

The assessment of penalty points is not required for any entry which does not appear in the alphabetized table listings. However, any entry which is deemed comparable to one appearing in these tables should be assessed an equivalent number of penalty points.

*For assistance in determining driver eligibility, please contact the Texas Department of Public Safety
School Transportation Unit at (512) 424-5732.*

Rev-1996

TABLE I
SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION
One (1) Point Assessments

BRAKES NOT ON ALL WHEELS WHEN REQUIRED	NO PARKING LAMPS
CARRY PASSENGER WITHOUT HELMET	NO REFLECTORS WHEN REQUIRED
CLEARANCE LAMPS IMPROPERLY MOUNTED	NO STOP LAMPS
CLEARANCE LIGHTS NOT VISIBLE SUFF DIST	NO TAIL LAMPS
DEFECTIVE BRAKES	NO TURN SIGNAL LAMPS-WHEN REQUIRED
* DEFECTIVE EQUIP/INABILITY TO CTRL VEH	NO WHITE FLAG ON TOW CHAIN
* DEFECTIVE EQUIPMENT CONDITION	NO WINDSHIELD WIPER OR CABLE
DEFECTIVE HEAD LAMPS	NONE OR DEFECTIVE PARKING BRAKES
DEFECTIVE PARKING LAMPS	*OPERATING WITH DEFECTIVE BRAKES
DEFECTIVE SAFETY GLAZING MATERIAL	*OPERATING WITH DEFECTIVE EXHAUST SYSTEM
DEFECTIVE STOP LAMPS	*OPERATING WITH DEFECTIVE HEADLIGHTS
DEFECTIVE TAIL LAMPS	*OPERATING WITH DEFECTIVE TIRES
DEFECTIVE TURN SIGNAL LAMPS	PULL MORE THAN ONE TRAILER OR VEHICLE
DEFECTIVE WINDSHIELD WIPER	RED LIGHT ON FRONT
DRIVING SAFETY COURSE SEC 143 (A) (1)	REFLECTORS IMPROPERLY MOUNTED
DRIVING SAFETY COURSE SEC 143 (A) (2)	REFLECTORS NOT VISIBLE SUFF DISTANCE
HAZARD MATERIAL PLACARD VIOLATION	SIDE MARKER LAMPS NOT VISIBLE SUFF DIST
HEAD LAMPS GLARING, NOT ADJUSTED	SLOW MOVING VEHICLE EMBLEM VIOLATION
ID LAMPS NOT VISIBLE SUFF DIST	TAIL LAMP IMPROPERLY LOCATED
IMPROPER FLASHING LIGHTS	TELEVISION IMPROPER LOCATED IN VEHICLE
IMPROPER USE OF BACKUP LAMP	TOO MANY AUXILIARY DRIVING LAMPS
IMPROPERLY DIRECTED LAMPS	TOO MANY AUXILLIARY PASSING LAMPS
MIRROR VIOLATION	TOO MANY FOG LAMPS
MORE THAN 4 DRIVING LAMPS LIGHTED	TOO MANY SPOT LAMPS
MUFFLER VIOLATION	UNAUTHORIZED GLASS COATING MATERIAL
MVI INSPECTION VIOLATION	UNAUTHORIZED USE OF SIREN, BELL, WHISTEL
NO AUTO BRAKE APPL ON BREAKAWAY TRAILERS	WARNING DEVICES NOT INSTALLED OR DEFECT
NO BEAM INDICATOR	WRONG COLOR BACKUP LIGHT
NO CLEARANCE LAMPS	WRONG COLOR CLEARANCE LIGHTS
NO FIRE EXTINGUISHER	WRONG COLOR ID LAMP
NO FRONT SEAT BELTS WHEN REQUIRED	WRONG COLOR LICENSE PLATE LIGHT
NO HEAD LAMPS-WHEN NOT EQUIPPED	WRONG COLOR REFLECTORS
NO LICENSE PLATE LIGHT	WRONG COLOR SIDE MARKER
NO MOTORCYCLE ENDORSEMENT	WRONG COLOR SIGNAL DEVICE
NO MUDFLAPS OR IMPROPER MUDFLAPS	WRONG COLOR STOPLIGHT
NO MULTIPLE-BEAM ROADLIGHTING EQUIPMENT	

* ANSI out of state violation

TABLE II
SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION
Two (2) Point Assessments

- ACC-CONDITION
- ACC-NO INDICATION OF FAULT
- ACC-VIOL MV LAW NO DAMAGE PERSON/PROP
- ACC-VIOL MV LAW RESULT IN BODILY INJURY
- ACC-VIOL MV LAW RESULT IN PROP DAMAGE
- ACCIDENT
- ACCIDENT FATAL
- ACCIDENT INCAPACITATING INJURY
- ACCIDENT NON-INCAPACITATING INJURY
- ACCIDENT NON-INJURY
- ACCIDENT POSSIBLE INJURY
- FATALITY CONDITION
- VIOL MV LAW RESULT IN DEATH OF ANOTHER

- ANSI out of state violations

**REVIEW PROCEDURE
FOR
DISQUALIFICATION APPEAL**

Two (2) points should automatically be assessed for an accident involvement occurring within three (3) years of the date of the driver record evaluation which appears on the driver history record. Applicants disqualified on the basis of penalty points assessed for accident involvements appearing on their driving record may request a review by the person(s) designated by the employer to determine if they were a cause of the accident(s). The applicant must identify the specific accident involvement(s) to be reviewed. Request a copy of the accident report(s) on the approved form, **'Request for Copy of Peace Officer's Accident Report' (ST-90)**. Mail the form to the Accident Records Division, Texas Department of Public Safety at the address listed on the form. The requested reports will be provided on a priority basis without charge.

The designated person(s) shall review information pertinent to the accident(s), which should include the **'Texas Peace Officer's Accident Report' (ST-3)**. In examining this report, consideration of such items as Charges Filed, Investigator's Narrative of What Happened, Diagram, and Factors/Conditions Contributing to the Accident should assist in making a determination as to whether or not the assessment of penalty points is appropriate.

If the designated person(s) reviews the accident report and any other pertinent information and determines that the applicant was not a cause of the accident(s), no penalty points should be assessed. If the designated person(s) determines that the applicant was a cause of the accident(s), two (2) penalty points shall be assessed for each accident.

TABLE III
SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION
Three (3) Point Assessments

BUS FAILED TO STOP AT RR CROSSING
BUS SHIFTING GEARS WHILE CROSS RR TRACKS
CARELESS DRIVING
CHANGED LANE WHEN UNSAFE
CHILD (4-14) NOT SECURED BY SEAT BELT
* COAST/OPERATE WITH GEARS DISENGAGED
COASTING
CONSUME ALCOHOL WHILE DRIVING
* CONTEST RACING ON PUBLIC TRAFFICWAY
CROSS RR WITH HEAVY EQUIP WITHOUT NOTICE
CROSS RR WITH HEAVY EQUIP W/O STOP/SAFETY
CROSSING PHYSICAL BARRIER
CUT ACROSS DRIVEWAY TO MAKE TURN
CUT CORNER LEFT TURN
CUT IN AFTER PASSING
DEPT SUSP B/BTR
DEPT SUSP-B/BTR-UNDER 21
DID NOT USE DESIGNATED LANE OR DIRECTION
DISREGARD POLICE OFFICER
DISREGARDED FLASHING RED SIGNAL
DISREGARDED FLASHING YELLOW SIGNAL
DISREGARDED LANE CONTROL SIGNAL
DISREGARDED NO LANE CHANGE SIGN
DISREGARDED NO PASSING ZONE
DISREGARDED RR CROSSING GATE OR FLAGMAN
DISREGARDED SIGNAL AT RR CROSSING
DISREGARDED TRAFFIC CONTROL DEVICE
DISREGARDED TURN MARKS AT INTERSECTION
DISREGARDED WARNING SIGN AT CONSTRUCTION
DRAWBAR OVER 15 FEET
* DRIVE WRONG DIRECTION/ROTARY INTERSECTION
DRIVER OPENED DOOR IN MOVING TRAFFIC
* DRIVING ON SHOULDER/DITCH/SIDEWALK
* DRIVING ON WRONG SIDE OF ROAD
* DRIVING TOO FAST FOR CONDITIONS
* DRIVING WRONG WAY ON ONE-WAY STREET
DROVE CENTER LANE-NOT PASS OR LEFT TURN
DROVE ON SIDEWALK
DROVE ON STREETCAR TRACKS WHERE PROHIB
DROVE ON WRONG SIDE-DIVIDED HIGHWAY
DROVE ONTO CONTROLLED ACCESS HWY WHERE P
DROVE THROUGH SAFETY ZONE

DROVE TO LEFT OF ROTARY TRAFFIC ISLAND
DROVE WITHOUT LIGHTS WHEN REQUIRED
DROVE WRONG WAY IN DESIGNATED LANE
DROVE WRONG WAY ON ONE-WAY ROADWAY
DWLS/SR
* ENDANGER PERSONS/PROP WHILE OPERATE MV
ENDORSEMENT VIOLATION-CMV
* EQUIPMENT MISUSE CONDITION
* EQUIPMENT REGULATION CONDITION
* EVADE ARREST BY EXTINGUISHING LIGHTS
* EVADE ARREST BY FLEEING THE SCENE
EXCESSIVE ACCELERATION
* EXCESSIVE SPEEDING-15 MPH OR OVER-CMV
FAIL COMPLY REQ STRIKING UNATTENDED VEH
FAIL COMPLY STRIKING FIXTURES ON HIGHWAY
FAIL STOP PROPER PLACE-FLASH RED SIGNAL
* FAIL TO CANCEL SIGNAL AFTER MANEUVER MADE
FAIL TO CONTROL SPEED
* FAIL TO FOLLOW INSTRUCTIONS OF POLICE
* FAIL TO OBEY TRAFFIC SIGN/CNTRL DEVICE
* FAIL TO OBSERVE SAFETY ZONE
* FAIL TO OBSERVE WARNINGS ON VEHICLE
* FAIL TO SIGNAL DIRECTION/REDUCE SPEED
FAIL TO STOP FROM ALLEY, DRIVEWAY OR BLDG
FAIL TO STOP PROPER PLACE-NOT INTERSECT
FAIL TO STOP PROPER PLACE-TRAFFIC LIGHT
FAIL TO STOP-DESIGNATED POINT-YIELD SIGN
* FAIL TO USE CARE/CAUTION OPERATING A MV
FAILED TO DIM HEADLIGHTS-FOLLOWING
FAILED TO DIM HEADLIGHTS-MEETING
FAILED TO DRIVE IN SINGLE LANE
FAILED TO GIVE ONE-HALF OF ROADWAY
FAILED TO GIVE WAY WHEN OVERTAKEN
FAILED TO KEEP TO RIGHT OF MOUNTAIN ROAD
FAILED TO PASS MET VEHICLE TO RIGHT
FAILED TO SIGNAL DISTANCE BEFORE TURN
FAILED TO SIGNAL TURN
FAILED TO SIGNAL-FOR STOP
FAILED TO SOUND HORN-MOUNTAIN ROAD
FAILED TO STOP AT MARKED RR CROSSING
FAILED TO STOP FOR APPROACHING TRAIN
FAILED TO STOP FOR SCHOOL BUS
FAILED TO STOP FOR STREETCAR
FAILED TO USE DUE CARE FOR PEDESTRIANS
FAILED TO USE PROPER HEADLIGHT BEAM
FAILED TO YIELD AT STOP INTERSECTION
FAILED TO YIELD AT YIELD INTERSECTION
FAILED TO YIELD RIGHT OF WAY

FAILED TO YIELD ROW AT OPEN INTERSECTION
 FAILED TO YIELD TURN RIGHT ON RED SIGNAL
 FAILED TO YIELD WHEN CHANGING LANES
 * FAILURE TO DIM LIGHTS AS REQUIRED
 * FAILURE TO KEEP IN PROPER LANE
 * FAILURE TO SIGNAL INTENTION TO PASS
 * FAILURE TO YIELD TO OVERTAKING VEHICLE
 * FELONY CONDITION
 FLEEING FROM POLICE OFFICER
 * FOLLOWING EMERGENCY VEHICLE
 UNLAWFULLY
 * FOLLOWING TOO CLOSELY
 * FOLLOWING TOO CLOSELY-CMV
 * FSRA/ACCIDENT RESULT PROPERTY DAMAGE
 ONLY
 * FTY TO SCHOOL BUS
 * FTYROW EMERGENCY/OTHER AUTHORIZED
 VEHICLE
 * FTYROW PED/ANIMAL RIDER/ANIMAL
 DRAWN VEH
 * FTYROW REQUIRED AT UNSIGNED
 INTERSECTION
 * FTYROW YIELD/STOP/ENTER FROM PVT
 DRIVE
 FYROW FOR BLIND OR INCAPACITATED
 PERSON
 FYROW LEAVING PRIVATE DRIVE, ALLEY, ETC
 FYROW-ON GREEN SIGNAL
 FYROW ON LEFT AT OBSTRUCTION
 FYROW TO EMERGENCY VEHICLE
 FYROW TO PED IN CROSSWALK--NO SIGNALS
 FYROW TO PED ON SIDEWALK
 FYROW TO PEDESTRIAN AT SIGNAL INTERSECT
 FYROW-TURN LEFT
 * GIVE WRONG SIGNAL
 HEAVY EQUIP DISREGARDED SIGNAL OF TRAIN
 * HIT AND RUN CONDITION
 ILLEGAL BACKING
 ILLEGAL LOAD EXTENSION
 ILLEGAL PASS ON RIGHT
 ILLEGALLY PASSED STREETCAR
 IMPEDING TRAFFIC
 * IMPROPER BACKING
 * IMPROPER ENTRANCE TO/EXIT FROM
 TRAFFICWAY
 * IMPROPER FOLLOW CONDITION
 * IMPROPER LANE CHANGES-CMV
 * IMPROPER LANE CHANGING
 * IMPROPER LANE CONDITION
 IMPROPER LOOKOUT
 IMPROPER PASSING

* IMPROPER START FROM A PARKED POSITION
 IMPROPER TURN
 IMPROPER TURN OR STOP SIGNAL
 IMPROPER USE OF AUXILIARY DRIVING LAMPS
 IMPROPER USE OF FOG LAMPS
 IMPROPER USE OF SPOT LAMPS
 INCREASED SPEED WHILE BEING OVERTAKEN
 INTERFERE WITH FUNERAL PROCESSION
 INTERFERE WITH STREETCAR
 LACK OF CAUTION ON GREEN ARROW SIGNAL
 * LEAVING SCENE BEFORE POLICE ARRIVE
 LEAVING SCENE OF ACCIDENT
 MADE U-TURN ON CURVE OR HILL
 * MAKE IMPROPER TURN
 * MAKE LEFT TURN FROM RIGHT TURN LANE
 * MAKE RIGHT TURN FROM LEFT TURN LANE
 * MISCELLANEOUS CONDITION
 NEGLIGENT COLLISION
 NO DRIVER'S LICENSE
 NO FLAGS ON PROJECTING LOAD DAYTIME
 NO LAMPS OR REFLECTORS ON LOAD AT NIGHT
 NO SEAT BELT-DRIVER
 NO SEAT BELT-PASSENGER
 OBSTRUCTED VIEW THROUGH WINDSHIELD
 OBSTRUCTING TRAFFIC
 * OPEN DOOR WHILE VEHICLE IS IN MOTION
 * OPERATE AT ERRATIC CHANGING SPEEDS
 * OPERATE CONTRARY TO COND SPECIFIED ON DL
 OPERATE MOTORCYCLE W/O APPROVED
 HEADGEAR
 * OPERATE MV WITHOUT APPROPRIATE DL
 OPERATE VEHICLE WITH CHILD IN OPEN BED
 * OPERATE/USE VEH WITHOUT CONSENT OF OWNE
 OPERATING VEHICLE WHERE PROHIBITED
 * OPERATING WITHOUT EQUIP REQUIRED BY LAW
 * OVERLOAD VEH W/ PASSENGERS OR CARGO
 PARKED DOUBLE
 PARKED FAIL TO STOP ENGINE
 PARKED ON CROSSWALK
 PARKED ON GRADE-FAILED TO TURN WHEELS
 PARKED UPON A BRIDGE OR IN TUNNEL
 PARKED WITH HEAD LAMPS NOT DIMMED
 PARKED WITHIN AN INTERSECTION
 PARKED WITHOUT LIGHTS
 PARKING ON ROADWAY
 PASSED VEHICLE STOPPED FOR PEDESTRIAN
 PASSED-INSUFFICIENT CLEARANCE
 PASSENGER/LOAD OBSTRUCT VIEW OF DRIVER
 * PASSING - INSUFFICIENT DISTANCE/VISION
 * PASSING BARRIER PROHIBITING TRAFFIC
 * PASSING CONDITION

- * PASSING ON THE WRONG SIDE
- * PASSING SCHOOL BUS UNLAWFULLY
- * PASSING WHERE PROHIBITED
- PROBATION BBTR
- PROHIBITED MTR VEH ON CONTROL ACCESS HWY
- RACING
- * RAN OFF ROAD
- RAN RED LIGHT
- RAN STOP SIGN
- * RECKLESS - CARELESS - NEGLIGENT CONDITION
- RECKLESS DRIVING
- * RECKLESS DRIVING-CMV
- RESTRICTION VIOLATION-CMV
- * RIGHT OF WAY CONDITION
- * SEX OFFENSE IN A MOTOR VEHICLE
- * SIGNAL INTENT CONDITION
- * SIGNS/CONTROL DEVICE CONDITION
- SLOWER VEHICLE FAILED TO KEEP TO RIGHT
- * SPEED LESS THAN POSTED MINIMUM
- SPEED-15 MPH OR MORE OVER POSTED LIMIT
- SPEED UNDER MINIMUM
- SPEEDING
- * SPEEDING CONDITION
- * SPEED IN EXCESS OF POSTED MAXIMUM
- * TAMPER/ILLEGAL DISPLAY TRAF CNTRL DEVICE
- TOO MANY RIDERS ON MOTORCYCLE
- * TOWING OR PUSHING VEHICLE IMPROPERLY
- * TRANSPORT HAZMAT WITHOUT PRECAUTIONS
- * TRUCK FAIL TO LEAVE SUFFICIENT DISTANCE
- * TURN CONDITION
- TURNED LEFT FROM WRONG LANE
- TURNED RIGHT FROM WRONG LANE
- TURNED RIGHT TOO WIDE
- TURNED WHEN UNSAFE
- TURNED ACROSS DIVIDING SECTION
- UNRESTRAINED CHILD UNDER FOUR
- UNRESTRAINED CHILD UNDER TWO
- * UNSAFE OPERATION OF VEHICLE
- UNSAFE SPEED
- UNSAFE START
- * USE MV AS DEVICE TO COMMIT A FELONY
- * USE MV FOR ILLEGAL ACTIVITY/ NO FELONY
- * USE MV IN CONNECTION WITH A FELONY
- * USE MV TO AID AND ABET A FELON
- * USE OF EQUIPMENT PROHIBITED BY LAW
- VEH HAUL EXPL FAIL REDUCE SPEED AT RR CROSSING
- VEH HAUL EXPL FAIL STOP AT RR CROSSING
- * VIOL IN CONNECTION W/FATAL ACCIDENT-CMV
- VIOLATE DL RESTRICTION
- VIOLATE DL RESTRICTION ON OCC LICENSE
- VIOLATION OF RESTRICTION CONDITION
- WARNING DEVICES NOT DISPLAYED
- * WILLFUL/WANTON DISREGARD-CMV
- WRONG SIDE OF ROAD
- WRONG SIDE ROAD-NO PASSING ZONE
- * WRONG WAY/SIDE/DIRECTION CONDITION

*ANSI out of state violations

TABLE IV
SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION
 Ten (10) Point Assessments

AGGRAVATED ASSAULT WITH MOTOR VEHICLE	* DUI - MEDICATION/NON-CONTROLLED SUBSTANCE
ALCOHOL BEVERAGE CODE OFFENSE	* DWI CONDITION
CONTROLLED SUBSTANCE ACT OFFENSE	DWI-BOND FORFEITURE
CRIMINAL NEGLIGENT HOMICIDE	* DWI/ALCOHOL NARC OR PATHOGENIC DRUGS
DANGEROUS DRUG ACT OFFENSE	DWLS-BOND FORFEITURE
DISQ-BBUTR-CMV	FAILURE TO STOP AND RENDER AID
DISQ-BBUTR-CMV-HAZT	* FELONY - USE OF CMV
DRIVE WHILE LICENSE SUSPENDED	* FELONY - USE OF CMV - CONTROLLED SUBSTANCE
* DRIVER UNDER INFLUENCE - ALCOHOL - CMV	FELONY-USE OF CMV
* DRIVING AFTER LICENSE DENIED	FELONY-USE OF CMV-CONTROLLED SUBSTANCE
DRIVING UNDER INFLUENCE	* FSRA/ACCIDENT RESULT IN BODILY INJURY
* DRIVING UNDER INFLUENCE - DRUGS - CMV	* ILLEGAL POSSESSION ALCOHOL/DRUGS IN MV
DRIVING UNDER INFLUENCE OF DRUGS	INVOLUNTARY MANSLAUGHTER
* DRIVING WHILE IMPAIRED	* LEAVING THE SCENE - CMV
DRIVING WHILE INTOXICATED	MURDER WITH MOTOR VEHICLE
DRIVING WHILE INTOXICATED-PROBATED	PROB .04 OR MORE-CMV
DRIVING WHILE INTOXICATED-SEC 24 (A-1) (1)	PROB .04 OR MORE-CMV-HAZT
DRIVING WHILE LICENSE DISQUALIFIED - CMV	PROB-BBUTR-CMV
* DRIVING WHILE REVOKED	PROB-BBUTR-CMV HZMT
* DRIVING WHILE SUSPENDED	* REFUSE TEST FOR ALCOHOL - DWI
DRUG OFFENSE SEC 24B	VOLATILE CHEMICAL ACT OFFENSE

*ANSI out of state violations

TABLE V
SCHOOL BUS DRIVERS' DRIVING RECORD EVALUATION
 Ten (10) Point Assessments

* ADMINISTRATIVE PER SE	ALR SUSPENSION - REFUSAL
ALR CMV DISQUALIFICATION - .04 OR MORE	* DISQUALIFIED - ALCOHOL .04/MORE - CMV
ALR CMV DISQUALIFICATION - .04 OR MORE	* DISQUALIFIED - ALCOHOL .04/MORE - CMV
- HAZMAT	- HAZMAT
ALR CMV DISQUALIFICATION - REFUSAL	* DISQUALIFIED - REFUSE ALCOHOL TEST -
ALR CMV DISQUALIFICATION - REFUSAL -	CMV - HZM
HAZMAT	* DISQUALIFIED - REFUSED ALCOHOL TEST -
ALR SUSPENSION - FAILURE	CMV

*ANSI out of state violations

**REVIEW PROCEDURE
FOR
DISQUALIFICATION APPEAL**

Ten (10) penalty points should automatically be assessed for any of the code entries listed above that appear on the driver's license record of a school bus driver. Any persons disqualified from driving a school bus on the basis of penalty points assessed from an Administrative License Revocation (ALR) suspension or disqualification appearing on their driver's license record and who has properly filed an appeal, may request the points be withdrawn pending appeal of the ALR judge's decision.

The school bus driver must provide to the designated person(s) a file-stamped copy of the appeal filed with the State Office of Administrative Hearings and Texas Department of Public Safety. Once the designated person(s) has confirmed that an appeal has been properly filed, the penalty points assessed for an ALR suspension or disqualification shall be removed from the applicant's driving record *pending* the final decision of the appeal if:

(1) the applicant's driver's license has not been suspended as a result of any alcohol-related or drug-related enforcement contact (as defined in the Texas Transportation Code Annotated § 524.001) during the five (5) years preceding the date of the person's arrest; and

(2) the person has not been convicted during the ten (10) years preceding the date of the person's arrest of an offense under:

- (A) Article 67011-1, Revised statutes, as that law existed before September 1, 1994;
- (B) Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994;
- (C) Section 49.04, Penal Code; or
- (D) Section 49.07 or 49.08, Penal Code, if the offense involved the operation of a motor vehicle.

A withdrawal of the penalty points under this table is effective for not more than ninety (90) days after the date the appeal petition is filed. On the expiration of the ninetieth day, the person(s) designated by the employer shall assess ten (10) penalty points. An extension of the ninety day period or additional time shall not be allowed.

If, in the final decision of the court, the driver's license is not suspended/disqualified, no penalty points shall be assessed. If, in the final decision of the court, the driver's license is suspended or disqualified, ten (10) penalty points shall be assessed for each suspension or disqualification arising from a separate arrest.

Credit for concurrent suspension arising from same alcohol-related incident

If a criminal conviction occurs that arises out of the same arrest as the ALR suspension/disqualification, the penalty points shall be assessed for the Table IV criminal conviction only. Any disqualification time already served under the Table V disqualification will be credited to the Table IV disqualification time period. The total disqualification period arising out of the same arrest shall not be longer than seven (7) years.

TEXAS DEPARTMENT OF PUBLIC SAFETY
LICENSE ISSUANCE & DRIVER RECORDS
BOX 4087, AUSTIN, TEXAS 78773-0001



Sample Driver Record

Page 1

02/20/96

4

999

DRIVER'S NAME SAMPLE, IMA		ADDRESS 5805 N. LAMAR		CITY AUSTIN	STATE 786760000 TX
BIRTHDATE 10/05/50	DRIVER LIC 00001803	CURRENT STATUS CLEAR	LICENSE TYPE OR CLASS CLASS B CDL	EXPIRATION DATE 10/05/98	ORIGINAL APP DATE 10/05/66

RECORD REQUESTED BY

┌

00001803SAMPLE,IM1005509993

RESTRICTIONS
WITH CORRECTIVE LENSES

ENDORSEMENTS
PASSENGER - CDL ONLY

03/11/88	DRIVING WHILE INTOXICATED		TRAVIS CO
09/11/88	DWI EDUCATION PROGRAM REQUIRED		TRAVIS CO
05/02/88	DWI EDUCATION PROGRAM COMPLETED		TRAVIS CO
01/19/92	SPEEDING		TRAVIS CO
01/30/95	NO MOTOR VEHICLE LIABILITY INS		TRAVIS CO
04/15/95	RAN RED LIGHT		TRAVIS CO
04/15/95	ACCIDENT		TRAVIS CO
06/01/95	ALR CMV DISQ NOTICE SERVED - REFUSAL	CMV	HOUSTON CO
06/10/95	ALR HEARING SCHEDULED	CMV	HOUSTON CO
06/30/95	ALR CMV DISQUALIFICATION - REFUSAL	CMV	HOUSTON CO
10/20/95	DISQUALIFICATION AFFIRMED - APPEAL DECISION	CMV	HOUSTON CO
01/29/96	DRIVING WHILE INTOXICATED	CMV	HOUSTON CO
02/15/95	EXCESSIVE SPEEDING-15 MPH OR OVER-CMV	CMV	OKLAHOMA

NOTE! See next page for an evaluation of this sample driver record

EVALUATION OF SAMPLE DRIVER'S LICENSE RECORD

The date of this record (02/20/96) appears directly above the driver's address. For the purpose of assessing penalty points, the established date for record evaluation is 02/29/96. Based on *current minimum* standards, the following explanation is provided to assist in determining a person's eligibility to operate any motor vehicle while in use as a school bus for the transportation of pupils.

DO NOT assess penalty points for the following entries:

- "03/11/88 DRIVING WHILE INTOXICATED" since the violation occurred more than *seven (7) years* from the established date for record evaluation
- "09/11/88 DWI EDUCATION PROGRAM REQUIRED" and "05/02/88 DWI EDUCATION PROGRAM COMPLETED" since these entries are not considered traffic safety violations and consequently *do not* appear in any of the table listings
- "01/19/92 SPEEDING" since the violation occurred more than *three (3) years* from the established date for record evaluation
- "01/30/95 NO MOTOR VEHICLE LIABILITY INS." since this is not considered a traffic safety violation and consequently *does not* appear in any of the table listings
- "06/01/95 ALR DISQ NOTICE SERVED - REFUSAL" since this is not considered a traffic safety violation and consequently *does not* appear in any of the table listings
- "06/10/95 ALR HEARING SCHEDULED" since this is not considered a traffic safety violation and consequently *does not* appear in any of the table listings

The prescribed number of penalty points SHALL be assessed as indicated for the following entries:

- "02/15/95 EXCESSIVE SPEEDING-15 MPH OR OVER-CMV" (3 points)
- "04/15/95 RAN RED LIGHT" (3 points)
- "04/15/95 ACCIDENT" (2 points)
- "06/30/95 ALR CMV DISQUALIFICATION - REFUSAL" (10 points) - refer to Table V
Disqualification Appeal as to the proper time to count the points
- "10/20/95 DISQUALIFICATION AFFIRMED - APPEAL DECISION" - if appeal was filed, wait for appeal decision or expiration of ninety days (whichever comes first to assess points)
- "01/29/96 DRIVING WHILE INTOXICATED" (10 points)

In accordance with the above evaluation, this record *shall* be assessed a total of eighteen (18) penalty points which would render the person *currently* ineligible for employment as a school bus driver. Although the accident involvement is subject to review and possible penalty point dismissal (see Table II for review procedure), points assessed for the remaining violations would still exceed the *maximum* allowable total of nine (9) points. Remember that the ALR CMV Disqualification penalty points are counted up until the time a criminal DWI conviction arising out of the same arrest appears on the driving record. If (or when) a criminal DWI conviction appears on the record, assess the ten (10) penalty points to it instead of the ALR conviction.

IMPORTANT NOTICE

All out-of-state entries appearing on a record are so designated, and will be listed last and in chronological order. However, to assure more accuracy, records should still be requested for *all new* applicants that have held an out-of-state drivers license within the past seven years.

Figure 3: 37 TAC 14.1(3)
Page 11 of 12

A current status of 'CLEAR' indicates only that the person's driver's license is not currently suspended, revoked, or canceled.

The "license type or class" indicates the category (CLASS A, B, or C) of vehicles a person is legally authorized to operate, and will further specify whether the license held is a Commercial Drivers License (CDL). Please note that a valid CDL is required to operate any motor vehicle with a manufacturer's rated carrying capacity of sixteen (16) or more passengers, including the driver. In addition, the various license restrictions and endorsements do *not* appear on this type of driving record, so each person's driver's license *must* be checked to insure that it is valid for the size and type of vehicle to be operated.

*For assistance in determining driver eligibility, please contact the Texas Department of Public Safety
School Transportation Unit at (512) 424-5732.*

REQUEST FOR COPY OF PEACE OFFICER'S ACCIDENT REPORT School Bus Driver Disqualification Appeal Procedure

Accident Records
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

Date of Request _____

Please provide the following information as accurately and completely as possible:

Date of Accident: _____
month day year

Location of Accident: _____
County City

Name of Driver: _____

Driver's Address: _____

Driver's License #: _____

This Peace Officer's accident report is required by this School District to dispose of an appeal resulting from the disqualification of a school bus driver or applicant.

Mail to _____
(Name of School District)

Mail Address: _____

City: _____

State: _____ Zip: _____

Requested By: _____
(Signature)

Title: _____

Phone #: _____

FOR DPS USE ONLY:

Date Received _____ Date Report Sent _____ Clerk _____

ST-90 (3/88)

INSTRUCTOR'S CERTIFICATE FOR SCHOOL BUS DRIVER TRAINING IN TEXAS

This is to certify that

has satisfactorily completed all program requirements
as specified by the Texas Department of Public Safety
and is hereby approved to provide
driver training course instruction
in school bus safety education
in the State of Texas

Training Agency Official's Signature

Name of Training Agency

Date of Issuance

Instructor's Driver's License Number

[illegible]

TEXAS DEPARTMENT OF PUBLIC SAFETY
School Transportation Division
SCHOOL BUS DRIVER TRAINING VERIFICATION

FSC® Recycled Number

County/District Number

19

Authority for Data Collection: Vernon's Civil Statutes, Article 6667b § 54a, recodified as Texas Transportation Code Annotated § 521.022 (Vernon 1996).

Planned Use of the Data: School bus driver training certification record

Instructions: List in alphabetical order the names of all persons to be verified for school bus driver training. Each name should be listed exactly as it appears on the driver's license. All Texas license numbers must contain eight (8) digits. The date of birth and the verification date must contain one (1) digit in each block.

C-East/Central Certification E-Enrollment/Emergency Certification Instructor Certification R-Certification Renewal/Refresher
 For further information, contact the School Transportation Division at (512) 424-5732.

[illegible]

By signing this School Bus Driver Training Verification sheet, I hereby affirm that the above named person(s) has/have successfully completed all certification requirements in accordance with program standards for conducting a state-approved school bus driver training course.

Typed Name of Course Instructor(s)	Telephone	Date	Instructor's Signature
Typed Name and Title of Authorized Coordinating Official	Telephone	Date	Official's Signature

Return one copy to:

Texas Department of Public Safety
School Bus Transportation
P.O. Box 4087
Austin, TX 78773-0001

Rev. 05/2016

TEXAS SCHOOL BUS DRIVER TRAINING CERTIFICATE EXAMPLE

<p style="text-align: center;">TEXAS SCHOOL BUS DRIVER TRAINING CERTIFICATE</p> <p style="text-align: center;">This is to certify that the driver identified hereinafter has satisfactorily completed a driver training course in school bus safety education approved by the Texas Department of Public Safety.</p> <p style="text-align: center;">_____ Director, Department of Public Safety</p>
--

(front)

Training Agency: RESC ____ * Training Date: _____	
Certification Expiration Date: _____	
Instructor: _____ (print name)	
RESC Training: _____	
Coordinator _____ (signature)	
Driver Name _____	
D. L.#: TX _____ * County/Dist.: _____	
Driver's Signature _____	

(back)

Texas Department of Public Safety Application for School Bus Driver Enrollment Certificate

Authority for Data Collection: Vernon's Texas Civil Statutes, Article 6687b, § 5(a); recodified as Texas Transportation Code Annotated § 521.022 (Vernon 1996) and Title 37, Texas Administrative Code, Section 14.35.

Planned Use of Data: Request by employer for approval of temporary and provisional training certificate status to operate a school bus on an emergency basis during the current school year.

Instructions: Please read carefully all information given below before completing this form. For assistance, please contact the School Transportation Unit at (512) 424-5732.

Applicants must satisfy each of the following prerequisites before their employer may request approval for the issuance of an enrollment certificate from the designated training agency. Indicate by a ✓ by each requirement the applicant has met:

- ☐ At least 18 years of age;
- ☐ Valid "commercial driver's license" (with passenger endorsement) for the gross vehicle weight rating and manufacturer designed passenger capacity of the school bus to be operated;
- ☐ An acceptable "driving history record" (secured from the Texas Department of Public Safety) determined in accordance with the provisions of the most current Texas Department of Public Safety publication entitled *School Bus Driver's Driving Record Evaluation*;
- ☐ An acceptable "criminal history record" (secured from any state law enforcement agency) reviewed in accordance with the current provisions of Texas Education Code Annotated, Section 22.084;
- ☐ An acceptable physical examination (conducted by a licensed physician and evaluated in accordance with all qualifications and standards specified on the most current Texas Department of Public Safety form titled *Medical Examination Report for School Bus Drivers*, and pre-employment/pre-duty drug testing (evaluated in accordance with current federal law); and
- ☐ An acceptable level of knowledge and skill regarding the safe and effective operation of school buses (see contents of Units IV, V, VI, VIII and X in the most current edition of the publication entitled *Course Guide for School Bus Driver Training in Texas* adopted by Texas Department of Public Safety).

Except as approved by the designated training agency, the following eligibility requirements shall apply to the issuance of all enrollment certificates:

- All recipients shall be registered for the first available basic (20-hour training) certification course as determined by the training agency; this includes anyone issued an enrollment certificate during the twelve-month interval (grace period for renewal) immediately following certification expiration. Failure to satisfactorily complete the course as scheduled shall result in immediate revocation of the certificate, and it *cannot* be reissued.
- All certificates should be dated to expire within a reasonable period of time following the conclusion of the first available course, but *no later than* the end of the school year for which they are issued. A minimum of five (5) years *must* elapse before a consecutive enrollment certificate may be issued.

Please print or type all information requested below and forward the completed application to your designated training agency for processing. Please keep on file a copy of this form and any verification received from the training agency to document approval for enrollment certification.

Applicant's Name: _____
(last) (first) (middle)

Date of Birth: ____/____/____ Driver's License Information: ____
(month) (day) (year) (state) (identification number)

Employer/District: _____ Telephone: _____
(name and county / district number, if applicable) (area code, number, and extension, if applicable)

I affirm that this applicant has fulfilled all of the above requirements (which I indicated by a ✓ in the box next to each requirement) necessary for the issuance of an enrollment certificate. Pending official notification of approval for an enrollment certificate from the designated agency, it shall be unlawful for the applicant to operate a school bus for the purpose of transporting students.

(name, title, and signature of authorized employer/district official)

(Date Submitted)

Figure 1: 37 TAC 18.31(a)

Classroom instruction during the classroom phase:

Unit I	The Driver, Passenger, and Pedestrian	2 hours
Unit II	*Traffic Laws	6 hours
Unit III	Occupant Protection	1.5 hours
Unit IV	*Driving Procedures	7 hours
Unit V	Driving Strategies	2 hours
Unit VI	Automobile and Maintenance	2 hours
Unit VII	Highway Character	0.5 hour
Unit VIII	Physical Laws	1 hour
Unit IX	Accident Avoidance	1.5 hours
Unit X	Alcohol and Drugs	5 hours
Unit XI	Emergency Procedures	1 hour
Unit XII	Two Wheeled Vehicles	1 hour
Unit XIII	The Driver As Consumer	1 hour
Unit XIV	Traffic Safety Programs	<u>0.5 hour</u>
TOTAL		32 HOURS

(* - the first six (6) hours of a concurrent program must come from Unit II - Traffic Laws and from Unit IV Driving Procedures. These six (6) hours are required preparation for testing necessary prior to the issuance of an instruction permit and prior to providing any of the laboratory phase of the driver training course.)

Figure 2: 37 TAC 18.31(c)

Unit XV	In-Car Instruction	
	Behind-the-Wheel Instruction	
	Off Street	1 hour
	City Driving	2 hours
	Rural Driving	1 hour
	Freeway Driving	1 hour
	General Driving	2 hours
	Supervised Practice	<u>7 hours</u>
	TOTAL	14 HOURS

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the ***Texas Register***.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the ***Texas Register***.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

State Office of Administrative Hearings

Monday, November 18, 1996, 10:00 a.m.

1701 North Congress Avenue

Austin

Utility Division

AGENDA:

A Rescheduled Hearing on the Merits will be held at the above date and time in SOAH DOCKET NO. 473-96-1191-COMPLAINT OF AT&T COMMUNICATIONS OF THE SOUTHWEST, INC. AGAINST GTE SOUTHWEST, INC. AND GTE LONG DISTANCE (PUC DOCKET NO. 15711)

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: September 19, 1996, 4:21 p.m.

TRD-9613752



Friday, November 22, 1996, 9:00 a.m.

1701 North Congress Avenue

Austin

Utility Division

AGENDA:

A Hearing on the Merits will be held at the above date and time in SOAH DOCKET NO. 473-96-1616-APPLICATION OF PARAMOUNT WIRELESS COMMUNICATIONS OF TEXAS, LLC FOR A CERTIFICATE OF OPERATING AUTHORITY (PUC DOCKET NO. 16370).

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: September 19, 1996, 4:21 p.m.

TRD-9613750



Monday, January 6, 1996, 10:00 a.m.

1701 North Congress Avenue

Austin

Utility Division

AGENDA:

A Hearing on the Merits will be held at the above date and time in SOAH DOCKET NO. 473-96-0333-APPLICATION OF TEXAS UTILITIES ELECTRIC COMPANY FOR REAL-TIME PRICING PROPOSAL (PUC DOCKET NO. 15015).

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: September 19, 1996, 4:21 p.m.

TRD-9613751



Texas Department of Agriculture

Tuesday, October 1, 1996, 1 p.m.; Wednesday, October 2, 1996, 9:00 a.m.

Texas Department of Agriculture, 1700 N. Congress, Room 911

Austin

Produce Recovery Fund Board

AGENDA:

Administrative hearings to consider and take action on alleged violations of the Agricultural Protective Act, Texas Agriculture Code, chapters 101-103 on the following dockets:

Tuesday, October 1, 1996: 1:00 — Hoki Farms v. Pace Foods, TDA Docket # 27-94-APA; 1:00 — Pennington v. Sillaway Produce, TDA Docket No. 07-95-APA

Wednesday, October 2, 1996: 9:00 — Johnny Storch v. Mittag dba Texas International Melon, TDA Docket No. 25-94-APA; 11:00 —

Keith Baccus v. Mittag dba Texas International Melon, TDA Docket No. 26-94-APA; 3:00 — Robert Ruiz v. World Wide Consultants, TDA Docket No. 52-93-APA

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583

Filed: September 19, 1996, 11:12 a.m.

TRD-9613732

◆ ◆ ◆
Texas Commission for the Blind

Friday, September 27, 1996, 1:30 p.m.

4800 North Lamar, TCB Administrative Building, Suite 320

Austin

Governing Board Special Committee on Grants

EMERGENCY MEETING AGENDA:

1. Review and action: Grant Proposals

Note: This is a meeting of a specially called committee of the Texas Commission for the Blind's Governing Board. This is an emergency meeting, which will be held via teleconference, with a speaker phone available at the meeting location referenced above.

REASON FOR EMERGENCY: A review of grant proposals is necessary so the agency can maximize matching funds for federal funds. This action is required prior to the end of the fiscal year ending September 30, 1996.

Contact: Diane Vivian, P.O. Box 12866, Austin, Texas 78711, (512) 459-2601

Filed: September 20, 1996, 4:04 p.m.

TRD 9613827

◆ ◆ ◆
Texas School for the Blind and Visually Impaired

Friday, September 27, 1996, 8:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees, Subcommittee on Finance and Audit

AGENDA:

Approval of Minutes from July 26, 1996

Legacy Revenue Report

Investments Report

Legacy Budget Report

Operating Budget Report

Contingency Fund Report

Update on Legislative Appropriation Request

Report from Internal Auditor

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133

Filed: September 19, 1996, 9:33 a.m.

TRD 9613720

◆ ◆ ◆
Friday, September 27, 1996, 9:00 a.m.

1100 West 45th Street, Room 150

Austin

Board of Trustees, Subcommittee on Personnel

AGENDA:

Consideration of New Contract Staff

Consideration of Personnel Policies (BJ, DAFA, DNC, DOCA)

Consideration of Board of Trustees Self-Evaluation

Consideration of Superintendent's Performance Appraisal: Progress on goals for the Current Year.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133

Filed: September 19, 1996, 8:57 a.m.

TRD-9613718

◆ ◆ ◆
Friday, September 27, 1996, 9:00 a.m.

1100 West 45th Street, Room 110

Austin

Board of Trustees, Subcommittee on Policies

AGENDA:

Review and Discussion of Policies on September 27, 1996 Agenda:

BJ, BJCA, BKB, CLC, DAFA, DNC, DOCA, EAC, EED, EEL, FO, FOA, FOAA, FOAB, FOB, FOC, FOD, FODD, FODE, GBA, GF(R) and GNC.

Discussion of Policy Review Plan for 1996-97.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133

Filed: September 19, 1996, 10:00 a.m.

TRD-9613728

◆ ◆ ◆
Friday, September 27, 1996, 10:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees, Board of Trustees

AGENDA:

Approval of Minutes from July 26, 1996 Board Meeting; Approval of Board Policies; Consideration of Approval of Organization Chart; Consideration of approval of New Contract Staff; Consideration of Approval of 1996-1998 Drug Free Schools Plan.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133

Filed: September 19, 1996, 9:33 a.m.

TRD 9613721

Texas Boll Weevil Eradication Foundation

Monday, September 30, 1996, 10:30 a.m.

San Angelo Zone Office, 940 Arroyo

San Angelo

Quarantine Committee

AGENDA:

Call to Order

Opening Remarks and Introductions

Discussion and Recommendations: Quarantine Procedures

Adjourn

Contact: Mr. Frank Myers, Executive Director, Texas Boll Weevil Foundation, P.O. Box 5089, Abilene, Texas 79608-5089, 1-800-687-1212

Filed: September 20, 1996, 1:46 p.m.

TRD-9613789



Texas Commission for the Deaf and Hard of Hearing

Friday, September 27, 1996, 8:00 a.m.

4800 North Lamar, Suite 250

Austin

Board for Evaluation of Interpreters

AGENDA:

Call to Order/Determination of Quorum; Public Comment; Correspondence; Reports; 1. Chairperson, 2. Vice-Chair, 3. Secretary, 4. Staff, 5. TSID Representative to the BEI; Executive Session: 1. Review Complaints, 2. Level III Testing Materials, 3. Review Evaluator/Board Member Applications/Review Proposals for Materials Development; Unfinished Business; 1. Selection of Consultants; a. Analysis, b. Evaluation Materials Development, c. Written Test Development; New Business: 1. Certification, Recertification, Revocation; 2. Calendar Update; 3. Level II Materials Development; Announcements, Adjourn.

Contact: Margaret Susman, 4800 North Lamar, Austin, Texas 78756, (512) 451-8494.

Filed: September 23, 1996, 9:59 a.m.

TRD-9613884



Texas Education Agency (TEA)

Friday, Saturday, September 27- 28, 1996, 8:30 a.m.

Doubletree Hotel Austin, Robertson Room, 6505 Interstate Highway 35 North

Austin

Continuing Advisory Committee (CAC) for Special Education

AGENDA:

Friday, Saturday 27, 1996, beginning at 8:30 a.m., a work session will be held covering topics including discussion of the essential knowledge and skills, CAC guidelines, finds from the regional meetings survey, and suggestions for improving local advisory committees. Beginning at 1:00 p.m., the committee will hear welcoming remarks and good news; approve the June 21-22, 1996 minutes; and discuss the following; current issues in special education, the future direction of the Texas Education Agency, the statewide reading initiative and old business.

Saturday, September 28, 1996, at 8:30 a.m., the committee will hear conference reports from CAC members. The committee will also discuss charter schools and their impact on students with disabilities, outcomes and recommendations of regional meetings, Project REACH, the Westat study on alternative assessment, and the future of the CAC. The committee will assign and approve letters, plan the next meeting and adjourn.

Contact: Texas Education Agency, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9414.

Filed: September 19, 1996, 3:24 p.m.

TRD-9613735



State Board for Educator Certification

Friday, October 4, 1996, 10:00 a.m.

Teacher Retirement System Building, 1001 Trinity, Board Room, 5th Floor

Austin

AGENDA:

1. Call to Order
2. Approval of Minutes
3. Executive Director's Update
4. Evaluation of the Executive Director
5. Adoption of Advisory Committee Selection Process
6. Propose Creation of Advisory Committees on the Code of Ethics and Accountability System for Educator Preparation
7. Propose Amendments to 19 TAC, Chapter 230
8. Committee Reports

Contact: State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701, (512) 469-3000.

Filed: September 23, 1996, 10:06 a.m.

TRD-9613905



Texas Commission on Fire Protection

Wednesday, Thursday, and Friday, October 16, 17 and 18, 1996, 9:00 a.m.

12675 North Research

Austin

Funds Allocation Advisory Committee

AGENDA:

- I. Approval of minutes of previous meeting.
- II. Discussion of monitoring reports.
- III. Discussion and possible action regarding contract number 94-0104.
- IV. Discussion and possible action on applications for financial assistance.
- V. Discussion or and recommendation on the interest rate to be used for loans under the Fire Department Emergency Program.
- VI. Discussion and possible action on amendments to the rules of the Fire Department Emergency Program.
- VII. Discussion and possible action regarding changes to the application instructions, application, and contract for the Fire Department Emergency Program.
- VIII. Discussion of Report on Acquisition and distribution of resources.

Contact: Carol Menchu, 12675 North Research, Austin, Texas 78759, (512) 918-7100
 Filed: September 20, 1996, 10:30 a.m.

TRD-9613767



Texas Health Care Information Council

Sunday, September 29, 1996, 1:00 p.m.

Moreton Building, Room M-739, 1100 West 49th Street

Austin

Hospital Discharge Data Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on: public comments received on the new proposed rules 25 TAC §§1301.11-1301.19 for the Collection and Release of Hospital Discharge Data published in the Texas Register on August 23, 1996, 21 TR 7939 (comments will include those received during the formal public hearing held on August 26, 1996; and written comments received by the Texas Health Care Information Council (council); implementation of the hospital discharge data system; administrative and operational issues of the council that may be brought to the attention of the subcommittee; public comments; and setting agenda for next meeting.

Contact: Craig A. Jimerfield, 1100 West 49th Street, Austin, Texas 78756 (Telephone 512) 458-7533. To request an accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708, at least two days prior to the meeting.

Filed: September 20, 1996, 4:21 p.m.

TRD-9613832



Sunday, September 29, 1996, 4:00 p.m.

Moreton Building, Room M-739, 1100 West 49th Street

Austin

Task Force on Council Policies and Procedures

AGENDA:

The subcommittee will discuss and possibly act on: development of policies and procedures to govern the conduct of the Health Care Information Council (council) and its staff; other administrative and operational issues of the council that may be brought to the attention of the Task Force; public comments; and setting agenda for next meeting.

Contact: Craig A. Jimerfield, 1100 West 49th Street, Austin, Texas 78756 (Telephone 512) 458-7533. To request an accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708, at least two days prior to the meeting.

Filed: September 20, 1996, 4:21 p.m.

TRD-9613831



Monday, September 30, 1996, 8:00 a.m.

Moreton Building, Room M-739, 1100 West 49th Street

Austin

AGENDA:

The council will hold a meeting to discuss and possibly act on: subcommittee reports (Hospital Discharge Data Subcommittee and Task Force on council Policies and Procedures); report from the National Association of Health Data Organizations; public comments received on the new proposed rules 25 TAC §§1301.11-1301.19 for the Collection and Release of Hospital Discharge Data published in the Texas Register on August 23, 1996, 21 TR 7939 (comments will include those received during the formal public hearing held on August 26, 1996; and written comments received by the Texas Health Care Information Council (council); preparing, submitting and awarding a contract for a consultant to conduct a survey of consumer needs relating to two principal groups (consumers of health care and consumers of healthcare information); preparing, signing, and presentation of letters and certificates to individuals selected as members of council Technical Advisory Committees; decisions on contracts for Healthcare consultant for developmental work on proposed rules for the collection and reporting of Health Plan Employer Data and Information Set (HEDIS) from health maintenance organizations (HMOs); and legal counsel for legal review and formatting of Proposed rules for the collection and reporting of HEDIS from HMOs; other administrative and operational issues of the council that may be brought to the attention of the council; public comments; and setting agenda for next meeting (formal public hearing on proposed rule for the collection and reporting of HEDIS from HMOs; and public health interim report).

Contact: Craig A. Jimerfield, 1100 West 49th Street, Austin, Texas 78756 (Telephone 512) 458-7533. To request an accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708, at least two days prior to the meeting.

Filed: September 20, 1996, 4:21 p.m.

TRD-9613830



Texas Higher Education Coordinating Board

Tuesday, October 1, 1996, 12:00 p.m.

Texas A&M Institute of Biosciences and Technology, Texas Medical Center, 2121 West Holcombe Boulevard

Houston

Universities Committees

AGENDA:

Briefing on how universities decide on new degree programs they propose to offer and demonstration on the Coordinating Board policies and procedures by Bill Sanford and his staff.

Contact: Bill Sanford, Assistant Commissioner for Universities, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6200.

Filed: September 20, 1996, 5:04 p.m.

TRD-9613836



Texas Historical Commission

Saturday, September 28, 1996, 10:00 a.m.

William P. Clements Building, 300 West 15th Street, Committee Room 5

Austin

State Board of Review

AGENDA:

I. Call to Order

II. Announcements

III. Review of Nominations for the National Register of Historic Places

IV. New Business

V. Adjournment

Contact: Dwayne Jones, Texas Historical Commission, P.O. Box 12776, Austin, Texas 78711, (512) 463-5997

Filed: September 19, 1996, 3:24 p.m.

TRD-9613738



Texas Department of Insurance

Thursday, October 10, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

Prehearing Conference in the Matter of TITLE INSURANCE BENCHMARK RATES.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328

Filed: September 23, 1996, 9:40 a.m.

TRD-9613872



Wednesday, October 16, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

In the Matter of an Appeal by CHILDREN'S MEDICAL CENTER OF DALLAS from Decision of the Texas Medical Liability Insurance Association (JUA).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328

Filed: September 23, 1996, 9:40 a.m.

TRD-9613873



Wednesday, October 16, 1996, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

To consider whether disciplinary action should be taken against OMEGA SPECIAL RISK, INC., Dallas, Texas, which holds a Managing General Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328

Filed: September 23, 1996, 9:41 a.m.

TRD-9613875



Texas Department of Licensing and Regulation

Tuesday, October 1, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 1st Floor, Room 108

Austin

Enforcement Division, Auctioneering

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Rodney Hradil, for failing to pay all amounts due the seller within 15 days of an auction in violation of 16 TEX.ADMIN. CODE (T.A.C.) § 67.101(4), and to consider the claim of James C. Nagy, Co-Independent Trustee, Banker Trust for Siblings, Claimant, against the Auctioneer Recovery Fund pursuant to the TEX. REV.CIV.STAT. ANN. arts 8700 (the Act) § 5C and 9100; the TEX. GOV'T. CODE ch. 2001 (APA); and 16 T.A.C. ch. 67.

Contact: Paula Hamje, Hearing Examiner, 920 Colorado, E.O.Thompson building, Austin, Texas 78701 (512) 4643-3192

Filed: September 20, 10:33 a.m.

TRD-9613774



Wednesday, October 2, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, William Penick Ilgenfritz, for failing to maintain insurance requirements in violation of 16 TEX. ADMIN. CODE (T.A.C.) § 75.40(b), and to notify the Department of the change of his business affiliation in violation of 16 T.A.C. § 75.70(k), pursuant to the TEX. REV.CIV.STAT. ANN. arts 8861 (the Act) and article 9100, the TEX. GOV'T. CODE ch. 2001 (APA); and 16 T.A.C. ch. 75.

Contact: Paula Hamje, Hearing Examiner, 920 Colorado, E.O.Thompson Building, Austin, Texas 78701 (512) 463-3192
Filed: September 20, 10:33 a.m.

TRD-9613775

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Thursday, October 3, 1996, 9:00 a.m.

920 Colorado, E.O. Thompson Building, 4th Floor, Room 420

Austin

Enforcement Division, Auctioneering

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider possible assessment of administrative penalties against the Respondent, Joseph William Teague, for violations of the TEX. REV. CIV. STAT. ANN. art 8700 (the Act) §§ 10 and 10A and violations of 16 TEX. ADMIN. CODE (T.A.C.) §§ 67.100(c)(1), 67.100(c)(3), 67.100(e)(1)(2)(93) and 67.100(f), pursuant to the Act and art 9100; the TEX GOV'T. CODE ch.2001 (APA); and 16 T.A.C. ch. 67.

Contact: Paula Hamje, Hearing Examiner, 920 Colorado, E.O.Thompson Building, Austin, Texas 78701 (512) 463-3192
Filed: September 23, 9:22 a.m.

TRD-9613858

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Texas Department of Protective and Regulatory Services

Friday, September 27, 1996, 9:00 a.m.

Winters Complex, 701 West 51st Street, Public Hearing Room 125-E

Austin

Texas Board of Protective and Regulatory Services

AGENDA:

1. Call to Order. 2. Briefing on draft of confidentiality rules. 3. Briefing on consultant's report regarding cost-benefit and economic impact of standards for child-care facilities adopted previously by the Board. 4. Adjourn.

Contact: Virginia Guzman, P.o. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 438-4435.
Filed: September 19, 1996, 4:12 p.m.

TRD-9613745

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Friday, September 27, 1996, 1:15 p.m.

Winters Complex, 701 West 51st Street, Public Hearing Room 125-E

Austin

Texas Board of Protective and Regulatory Services

AGENDA:

1. Call to Order. 2. Reading, correction, and approval of minutes of May 24, June 12, July 2, and August 22, 1996, meetings. 3. Public testimony. 4. Report by the Chairman. 5. Report by the Executive Director. 6. Presentation of Positive Beginnings Program. 7. Staff Reports. a. Budget/Finance. b. Child and Adult Protective Systems (CAPS). c. Sunset. d. Internal audit. e. Facilities Investigations. 8. Old Business. a. Final adoption of Adult Protective Services rules concerning handbook definitions, family violence, and protective orders. b. Receipt of consultant's report regarding cost-benefit and economic impact of standards for child-care facilities adopted previously by the Board. 9. New business. a. Consideration and approval to publish proposed rule changes to permit the Department to use federal dollar limits for purposes of requiring a contractor to capitalize equipment and for purpose of defining "equipment". b. Consideration and approval to publish proposed confidentiality rules. 10. Adjourn.

Contact: Virginia Guzman, P.o. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 438-4435.
Filed: September 19, 1996, 4:11 p.m.

TRD-9613741

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Public Utility Commission of Texas

Monday, September 30, 1996, 9:00 a.m.

1701 N. Congress Avenue

Austin

AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: Docket Number 15840, Regional Transmission Proceeding to Establish Postage Stamp Statewide Load Flow Pursuant to P.U.C. SUBST.R. (CRT); Docket Number 15849, Application of GTE southwest, Inc. for Revision of Its Shared Tenant Services Tariff to Include Its Demarcation Practice; Discussion and possible action on project assignments, correspondence, staff reports, agency administrative procedures and personnel policy; Relocation to William B. Travis Building; Budget, fiscal matters, consumer affairs, and strategic planning; Adjournment for closed session to consider litigation and personnel matters; Reconvene for discussion and decisions on matters considered in closed session.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241; after 9/27/96 address and phone number will be 1701 N. Congress Avenue, Austin, Texas 78701, (512) 936-7145
Filed: September 20, 1996, 4:03 p.m.

TRD-9613826

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Friday, October 4, 1996, 9:30 a.m.

1701 N. Congress Avenue

Austin

AGENDA:

Project No. 14894: A meeting of the Synchronous Interconnection Committee will be held to investigate the most economical, reliable, and efficient means to synchronously interconnect the alternating current electric facilities of the electric utilities within the Electric Reliability Council of Texas reliability area to the alternating current electric facilities of the electric utilities within the southwest Power Pool reliability area, including the cost and benefit to effect the interconnection, an estimate of the time to construct the Interconnecting facilities and the service territory of the utilities in which those facilities will be located, pursuant to Tex. Civ. Stat. art. 1446c-0, sec. 2.056(b).

Contact: Paula Mueller, 1701 N. Congress Avenue, Austin, Texas 78711-3326, (512) 936-7145

Filed: September 19, 1996, 9:59 a.m.

TRD-9613727



Texas Real Estate Commission

Monday, September 30, 1996, 8:30 a.m.

Conference Room 235, TREC Headquarters Office, 1101 Camino La Costa

Austin

Education Committee

AGENDA:

1. Call to order
2. Public comments
3. Acceptance of real estate related courses
4. Updating core real estate courses
5. Additional MCE topics
6. Student evaluation procedures
7. Educational programs for consumers

Contact: Mark A. Moseley, General Counsel, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: September 20, 1996, 8:38 a.m.

TRD-9613762

Monday, September 30, 1996, 9:30 a.m.

Conference Room 235, TREC Headquarters Office, 1101 Camino La Costa

Austin

AGENDA:

Call to order; Minutes of August 12, 1996 Commission meeting; Staff reports for June and July 1996; committee reports; State of TREC report by administrator; General comments from visitors; Discussion and possible action to adopt; (a) amendment to 22 TAC §535.154, concerning misleading advertising, (b) amendment to 22 TAC §537.11 and new 22 TAC §537.45, concerning lead-based paint

contract addendum; Executive session to discuss pending litigation pursuant to Section 551.071, Texas government Code; Discussion and possible action to authorize payments from recovery funds; Discussion and possible action on petition for declaratory rulings filed by Donald H. Smith and wife, Pat Smith; Discussion and possible action on annual fee review; Discussion and possible action to propose amendment to 22 TAC §534.1, concerning charges of copies of public records; Update on examination program; discussion and possible action on licensing examinations; Discussion and possible action concerning promulgated form Addendum for Inspection With Right To Terminate; Discussion and possible action concerning current use and related issues regarding homeowner association disclosure forms; Discussion only regarding inspector compliance with 22 TAC §535.222 (Standards of Practice); Discussion and possible action to approve education providers, courses or instructors; Discussion and possible action regarding inquiries and requests for ethics opinions and, based on Ethics Advisory Opinions 257, 311, and 318, a review and modification of commission policy regarding the propriety of commissioners or commission staff teaching all or any part of courses for which a licensee may obtain precensure, salesman's annual education (SAE), or mandatory continuing education (MCE) credit; and the expenditure of public funds to reimburse travel expenses related to teaching such courses; Consideration of complaint information concerning: Billy Joe Swafford, Kevin Wayne roe, William Paul Martin, Debbie Ann Lavalley, Jasodia Radha Merrick, Charles Kevin Jones, Roosevelt G. Martinez and Joe Sydney Davis; Entry of orders in contested cases; Scheduling of future meetings.

For ADA assistance, call Nancy Guevremont at (512) 465-3923 at least two days prior to the meeting.

Contact: Mark A. Moseley, General Counsel, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: September 20, 1996, 8:38 a.m.

TRD-9613763



Texas Real Estate Research Center

Wednesday, September 25, 1996, 1:30 p.m.

Hyatt Regency Austin, 208 Barton Springs Road

Austin

Advisory Committee

AGENDA:

1. Opening Remarks
2. Approval of Minutes
3. Current Budget Report
4. Discussion of 1996-1997 Plan of Work
5. Status Reports
6. Discussion of Bylaws
7. Election of Officers
8. Other Business
9. Adjourn

Contact: R. Malcolm Richards, Real Estate Center, Texas A&M University, College Station, Texas 77843-2115, (409) 845-9691.

Filed: September 18, 1996, 3:11 p.m.

TRD-9613685

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Texas Savings and Loan Department

Thursday, October 3, 1996, 9:00 a.m.

Finance Commission Building, 2601 N. Lamar, 3rd Floor

Austin

AGENDA:

The purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of Coastal Banc ssb, Houston, Harris County, Texas, to reorganize its holding company structure, from which record the Commissioner will determine whether to grant or deny the application.

Contact: Teresa Scarborough, Applications Analyst, 2601 North Lamar, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: September 20, 1996, 10:32 a.m.

TRD-9613771

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Stephen F. Austin State University

Monday, September 23, 1996, 1:30 p.m.

1936 North Street, Room 307, Austin Building

Nacogdoches

Board of Regents Facilities Committee

AGENDA:

- I. Renovation of Garage Area of Forestry Building
- II. Renovation of First Floor of Austin Building
- III. Replacement of windows, Second and Third Floors of Austin Building
- IV. Installation of a Utility Loop
- V. Architectural and Engineering Services
- VI. Memory Upgrade for Central Processors
- VII. Study of Dormitory Options
- VIII. Executive Session
 - A. Real Estate

Contact: Dan Angel, P.O. Box 6078, Nacogdoches, Texas 75962-6078, (409) 468-2201.

Filed: September 18, 1996, 11:16 a.m.

TRD-9613660

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Teacher Retirement System of Texas

Thursday, September 26, 1996, 8:30 a.m.

1000 Red River, Room 229E

Austin

Board of Trustees Audit Committee

AGENDA:

1. Approval of Official Minutes of the June 27, 1996 Audit Committee Meeting
2. Review Internal Audit Department Reports — (a) TRS-Care Retention Expense Audit- Bozzelli, (b) Travel Audit — Bose, (c) Investment Policy Compliance Review — Henry
3. Orientation — Review of Financial Operations — Jung
4. Consideration of Internal Audit Plan for 1996-1997- Henry
5. Quarterly Report of Internal Audit Department — Henry
6. Consideration of Internal Audit Charter — Henry

7. Consideration of Annual Performance Evaluation and Salary for the Director of Internal Audit (Executive Session) — Williamson

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 18, 1996, 4:20 p.m.

TRD-9613691

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Thursday, September 26, 1996, 10:00 a.m.

1000 Red River, Room 514

Austin

Board of Trustees Policy Committee

AGENDA:

1. Approval of Official Minutes of the June 26, 1996 Meeting
2. Consideration of Proposed Changes to TRS Investment Policy
3. Consideration of Annual Policy Plan
 - a. Identification of New Policies for Proposal
 - b. Consideration of Schedule for Review of Current Policies

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 18, 1996, 4:20 p.m.

TRD-9613692

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Thursday, September 26, 1996, 12:00 p.m.

1000 Red River, Room 229

Austin

Board of Trustees Nominations Committee

AGENDA:

1. Approval of Official Minutes of the August 23, 1996, Meeting
2. Consideration of Nominee for Vice Chairman of the Board of Trustees

3. Consideration of Trustee Representative to the Texas Growth Fund Board of Trustees

4. Consideration of Recommendation for Investment Advisors and Real Estate Consultants

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 18, 1996, 4:20 p.m.

TRD-9613693



Thursday, September 26, 1996, 1:00 p.m.

1000 Red River, 5th Floor, Board Room

Austin

Board of Trustees Investment Committee

AGENDA:

1. Approval of Minutes of June 27, 1996, Meeting
2. Review of Annual Real Estate Performance-Mr. Young, Deloitte & Touche
3. Discussion of Investment Activities-Mr. Carl
4. Consideration of Equity Approved Universe-Mr. Carl
5. Consideration of Recommended Allocation of Cash Flow for Current Quarter-Mr. Cooper
 - a. Cash Flow Analysis
 - b. Staff Recommendation for Cash Flow
6. Review of Investments-Staff
 - a. Total Portfolio
 - b. Equity Portfolio
 - c. Fixed Income Portfolio
 - d. Real Estate Portfolio
 - e. Alternative Assets Portfolio
7. Review of Portfolio Performance-Mr. Record, Wellington Management
8. Consideration of Agreements with Investment Advisors-Mr. Dunlap
9. Review of Investment Outlook and Market Conditions-Mr. Records, Wellington, Management

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 18, 1996, 4:20 p.m.

TRD-9613694



Friday, September 27, 1996, 8:00 a.m.

1000 Red River, Room 514 E

Austin

Board of Trustees Real Estate Committee

AGENDA:

1. Approval of Minutes of the August 23, 1996, Meeting
2. Update on Mortgage Risk Ratings
3. Consideration of Capistrano Land Partners Bankruptcy Settlement/ Loan Modification
4. Review of Annual Real Estate Performance
5. Discussion on Request for Proposal for Strategic Consultant
6. Consideration of Agreements with Real Estate Consultants

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 19, 1996, 4:12 p.m.

TRD-9613744



Friday, September 27, 1996, 9:00 a.m.

1000 Red River, 5th Floor Boardroom

Austin

Board of Trustees

AGENDA:

1. Roll Call of Board Members
2. Public Comments
3. Consideration of board Member's Absence from August 23, 1996, Meeting
4. Approval of Minutes of August 23, 1996 Meeting
5. Board Committee Appointments — Mr. Steinhart
6. Report of Nominations Committee- Mrs. Cummins
7. Report of Audit committee — Dr. Williamson
8. Report of Policy Committee and Consideration of Annual Policy Plan — Dr. Stream
9. Report of Real Estate Committee — Dr. Youngblood
10. Report of Investments Committee- Dr. Williamson
11. Consideration of Authorization to Act As Chief Investment Officer — Dr. Dunlap
12. Review of Investment Performance — Mr. Cooper
13. Status Report of Member Enrollment and Reporting Improvement and Transformation Project — Mrs. Koontz
14. Report of Benefits Division — Mrs. Koontz
15. Status Report from the Chief Financial Officer — Mr. Jung
16. Report of Executive Director — Mr. Dunlap
17. Comments by Board Members.

18. Consideration of Finding on Fiduciary Need for Consultant contract for Federal Legislation and Administrative Law Matters — Mr. Baker

19. Consideration of Procedure for Selecting Fiduciary Counsel — Mr. Baker

20. Report of General Counsel on Litigation — Mr. Baker

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik, (512) 397-6400 or TDD (512) 397-6444 or (800) 841-4497 at least two days prior to meeting.

Filed: September 19, 1996, 4:13 p.m.

TRD-9613749

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The Texas A&M University

September 25, 1996, 6:00 p.m.

Board of Regents Meeting Room, MSC, Clark Street

College Station

Board of Regents

AGENDA:

Open house forum for discussion of student related issues

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:03

TRD-9613794

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September 26, 1996, 9:00 a.m. and Reconvene September 27, 1996, 11:15 a.m. or upon recess or adjournment of Executive Committee

MSC Room 292, Joe Rouff Boulevard

College Station

Board of Regents

AGENDA:

Consider, Act and Vote on the Following Matters for the Various Components of TAMUS: Contracts; Quasi-Endowments; Appropriations; Gifts, Grants, Loans and Bequests; Construction Bids, PORs, Designs and A/Es; Centers; Oil, Gas and Sulphur Lease Auction; Service Awards, Tables of Programs and Degrees; Admission Standards; Policies; Seals, Colors, Logo, Flag and Mascot; Instruc Telecomm Plan; Minutes; Emeritus Titles, Tenure; Appts. and Promotions; Name Facilities; Resolutions; Create Position and Appoint Int. VP and CEO for TAMUG, Reauthorize MO 150-96; Master Plans;

Reports: Overview of System and Component Activities;

Closed Session Discussions: Consult w/Sys Attorneys on Pending and Proposed Lit and Matters Recognized as Attorney-Client Confidential and Privileged; Matters Involving the Appt, Employ, Evaluation, Reassignment, Duties, Discipline or Dismissal, or to Hear Complaints or charges Against an Officer or Employee; Appoint Int VP and CEO of TAMUS

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613801

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September 26, 1996, 9:00 a.m. and Reconvene September 27, 1996, 11:15 a.m. or upon recess or adjournment of Executive Committee

MSC Room 292, Joe Rouff Boulevard

College Station

Board of Regents

REVISED AGENDA:

Consider, Act and Vote on the Following Matters for the Various Components of TAMUS: Contracts; Quasi-Endowments; Appropriations; Gifts, Grants, Loans and Bequests; Construction Bids, PORs, Designs and A/Es; Centers; Oil, Gas and Sulphur Lease Auction; Service Awards, Tables of Programs and Degrees; Admission Standards; Policies; Seals, Colors, Logo, Flag and Mascot; Instruc Telecomm Plan; Minutes; Emeritus Titles, Tenure; Appts. and Promotions; Name Facilities; Resolutions; Create Position and Appoint Int. VP and CEO for TAMUG, Reauthorize MO 150-96; Master Plans;

Reports: Overview of System and Component Activities;

Closed Session Discussions: Consult w/Sys Attorneys on Pending and Proposed Lit and Matters Recognized as Attorney-Client Confidential and Privileged; Matters Involving the Appt, Employ, Evaluation, Reassignment, Duties, Discipline or Dismissal, or to Hear Complaints or Charges Against an Officer or Employee; Appoint Int VP and CEO of TAMUS (Revised Agenda —Addition of Items 28 and 29

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 4:25 p.m.

TRD-9613833

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September 26, 1996, 10:00 a.m. or upon recess of the Board Meeting

MSC Room 292, Joe Rouff Boulevard

College Station

Finance and Audit Committee

AGENDA:

Consider, Act and Vote on the Following Matters for the Various Components of the Texas A&M University System: Approve Contract Ext for Dining Services w/Marriott Mgmt Services, Corp, PVAMU; Establish Quasi-Endowments, TAMU; Appropriate PUFBP for Classroom Renovation, TAMU; Accept Gifts, Grants, Loans & Bequests, TAMUS; Appropriate RFSDP to Pay for Purchase & Acquisition of Hot and Chilled Water and Steam Distribution Systems, TAMUS; Reports on Results of Peer Review of System

Internal Audit Dept & State Auditor's Review of TAMUS Service Agencies

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:03 p.m.

TRD-9613795

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September 26, 1996, 1:30 p.m. or upon adjournment or recess of the Finance and Audit Committee Meeting

MSC Room 292, Joe Routt Boulevard

College Station

Facilities Planning and Building Committee

AGENDA:

Consider, Act and Vote on the Following Construction Matters for the Various Components of the Texas A&M University System: Action on Bids, Approval of Programs of Requirements, Approval and Appropriations for Designs, and Selection of Architects/Engineers; Reports on the Status of Proposed Law & Puryear Commemorative Plaza, Status of System Construction Projects Authorized by the BOR, Status of Projects Under Construction.

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613796

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September 26, 1996, 2:45 p.m. or upon adjournment or recess of the Facilities Planning & Building Committee

MSC Room 292, Joe Routt Boulevard

College Station

Committee for Service Units

AGENDA:

Establishment of the Ergonomics Center and the Global Petroleum Research Institute, Texas Engineering Experiment Station

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613797

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September 26, 1996, 3:00 p.m. or upon adjournment or recess of the Committee for Service Units

MSC Room 292, Joe Routt Boulevard

College Station

Committee for Land & Mineral Resources

AGENDA:

Consideration, Action and Vote on the Following: Approval of Oil, Gas & Sulphur Lease Auction, Covering 686.2 Acres, Edwards County, TAMUS

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613798

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September 27, 1996, 8:00 a.m. (or upon adjournment or recess of the Board Meeting)

MSC Room 292, Joe Routt Boulevard

College Station

Committee for Academic Campuses

AGENDA:

Consider, Act & Vote on the Following Academic Matters for the Various Components of the Texas A&M University System: Service Awards, Authorization to Submit Proposals to THECB relating to Tables of Programs and Degrees; Admission Standards; Policies on Admission Standards & Enrollment Mgmt Plans; Seals, Colors, Logo, Flag & Mascot; Instructional Telecommunications Plan, Reports on Provisional Programs, TAMU's College of Vet Med Admission Policies & Grad Placement & Rates, Tables of Programs.

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613799

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September 27, 1996, 9:15 a.m. (or upon adjournment or recess of the Committee for Academic Campuses Meeting)

MSC Room 292, Joe Routt Boulevard

College Station

Executive Committee

AGENDA:

Consider, Act & Vote on the Following Matters for the Various Components of the Texas A&M University System: Minutes; Emeritus Titles; Tenure; Appointments & Promotions; Naming of Facilities; Resolutions; Creation of Position & Appointment of Int VP & CEO for TAMUG, Reauthorization of MO150-96 (Authorization for Settlement Agreement w/Tenneco); Master Plan for TAMUG: Reports on Status of Proposed SW Regional Animal Biocontainment Facility, Organization of TAMUS Statewide Health Science Ctr; Strategic Plan

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 2:04 p.m.

TRD-9613800

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September 27, 1996, 9:15 a.m. (or upon adjournment or recess of the Committee for Academic Campuses Meeting)

MSC Room 292, Joe Roult Boulevard

College Station

Executive Committee

Revised Agenda

AGENDA:

Consider, Act & Vote on the Following Matters for the Various Components of the Texas A&M University System: Minutes; Emeritus Titles; Tenure; Appointments & Promotions; Naming of Facilities; Resolutions; Creation of Position & Appointment of Int VP & CEO for TAMUG, Reauthorization of MO150-96 (Authorization for Settlement Agreement w/Tenneco); Master Plan for TAMUG: Reports on Status of Proposed SW Regional Animal Biocontainment Facility, Organization of TAMUS Statewide Health Science Ctr; Strategic Plan

Contact: Vicki Running, Executive Secretary to the Board, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: September 20, 1996, 4:27 p.m.

TRD-9613834

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Texas Southern University

Monday, September 23, 1996, 9:30 a.m. (Rescheduled from 10:00 a.m.)

3100 Cleburne/Hannah Hall, Room 111

Houston

Finance and Building and Grounds Committee

AGENDA:

Meeting to Consider: Financial Affairs and selection of New Chief Financial Officer.

Contact: Janet Lightfoot, 3100 Cleburne/Houston, Texas 77004, (713) 529-8911.

Filed: September 18, 1996, 1:59 p.m.

TRD-9613671

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Texas State Technical College System

Tuesday, September 24, 1996, 10:00 a.m.

Teleconference at TSTC System Conference room

3801 Campus Drive, Building 32-01, Waco

Board of Regents Executive Committee

AGENDA:

The Board of Regents will discuss and act on the following Minute Orders:

Receive bids for the sale of the Texas Constitutional Appropriations Bonds (Texas State Technical College System), Series 1996, Set the price on the Texas Constitutional Appropriations Bonds (Texas

State Technical College System), Series 1996, Set the interest rate, Award the sale of the bonds and adopt the Resolution authorizing the issuance of the Texas Constitutional Appropriations Bonds (Texas State Technical College System), Series 1996; Approval of all closing documents as recommended by Bond Counsel, Authorize the Officers of the Texas State Technical College to Execute all the Documents deemed necessary by the Bond Counsel for closing, Signature Authorizations, Such Other and Further Business that comes before the Board.

Contact: Sandra Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 18, 1996, 3:42 p.m.

TRD-9613686

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Texas Department of Transportation

Thursday, September 26, 1996, 9:00 a.m.

125 East. 11th Street, First Floor, Dewitt C. Greer Building

Austin

Texas Transportation Commission

AGENDA:

Delegations: Houston County; Brewster County; Rio Grande Valley Partnership — Cameron, Hidalgo, Starr, and Willacy Counties; and Brownsville Navigation District. Approve Minutes. Awards/Recognitions/Resolutions. Corridor Report — Texas/Oklahoma/New Mexico State line to IH 10. Rulemaking: 43 TAC ch. 9, 17, and 21. Programs: 1997 Unified Transportation Program; Houston Intelligent Vehicle Highway System Priority Corridor; and San Antonio Model Deployment Program. Planning. Multimodal Transportation. Contract Awards/Rejections/Defaults/Assignments/Claims. Highway-Rail Grade Crossing Consolidation. Routine Minute Orders. Executive Session for legal counsel consultation, land acquisition matters, and management personnel evaluations, designation, assignments and duties. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: September 18, 1996, 2:49 p.m.

TRD-9613678

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Texas Turnpike Authority

Tuesday, October 1, 1996, 1:00 p.m.

3015 Raleigh Street

Dallas

Budget Committee

AGENDA:

Roll Call of Committee Members.

Recognition of other Directors and guests present.

1. Discussion of preliminary approval of proposed operating budgets for calendar year 1997. (a) Dallas North Tollway Budgets, (b) Mountain Creek Lake Bridge Budgets, (c) Feasibility Study Fund Schedule of Potential Expenditures

2. Executive Session — pursuant to Chapter 551, Subchapter D, Texas Government Code: (a) Section 551.071(1), advice from counsel and TTA personnel about pending or contemplated litigation and/or settlement offers related to the Dallas North Tollway system, including the Dallas North Tollway, the Addison Airport Tunnel, and the President George Bush Turnpike ("190T"), (b) Section 551.074, deliberations concerning appointment, employment, evaluation, reassignment, duties, discipline, and/or dismissal of various staff persons and positions and (c) Section 551.075, briefing by TTA staff and questioning of TTA staff related to the Dallas Tollway System and other TTA operations.

3. Consider resolutions recommending (a) Dallas North Tollway 1997 Budgets. (b) Mountain Creek Lake Bridge 1997 Budgets and (c) Feasibility Study Fund Schedule of Potential Expenditures for 1997, and (d) transfer of capital from the DNT Capital Improvement Fund to the TTA Feasibility Fund.

Contact: Jimmie G. Newton, Secretary, Texas Turnpike Authority, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.
Filed: September 20, 1996, 10:31 a.m.

TRD-9613768



University of Texas Health Center at Tyler

Thursday, October 3, 1996, 12:00 noon

Highway 271 & Highway 155, Room 113

Tyler

Animal Research Committee

AGENDA:

Approval of Minutes

Chairman Report

Veterinarian Report

Old Business

New Business

Adjournment

Contact: Lea Alegre, Recording Sec. ARC, UTHCT, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7661

Filed: September 20, 1996, 1:46 p.m.

TRD-9613787



Texas Board of Veterinary Medical Examiners

Wednesday, October 2, 1996, 1:30 p.m.

William P. Hobby Building, 333 Guadalupe, Tower 3, Room 302

Austin

Examination Preparation Committee

AGENDA:

The Committee will meet to prepare the December, 1996 State Board Examination for licensure.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701, (512) 305-7555

Filed: September 20, 1996, 2:14 p.m.

TRD-9613806



Thursday, October 3, 1996

William P. Hobby Building, 333 Guadalupe, Tower 1, Room 102

Austin

Board

REVISED AGENDA:

The Board will review Agreed Orders in disciplinary cases; consider reinstatement of a license surrendered in lieu of disciplinary action; act on petitions to waive the National Board Examination and/or the Clinical Competency Test; act on rules to be proposed and rules to be adopted as reflected on the attached agenda; approve the 1997 Operating Budget; and conduct other business as reflected on the attached agenda.

Persons requiring reasonable accommodations are requested to contact Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701-3998, (512) 305-7555 or TDD 1-800-735-2989 within 72 hours of the meeting to make appropriate arrangements.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701, (512) 305-7555

Filed: September 20, 1996, 2:14 p.m.

TRD-9613807



Thursday, October 3, 1996, 8:30 a.m.

William P. Hobby Building, 333 Guadalupe, Tower 1, Room 102

Austin

Board

REVISED AGENDA:

The board will review Agreed Orders in disciplinary cases; consider reinstatement of a license surrendered in lieu of disciplinary action; act on petitions to waive the National Board Examination and/or the Clinical Competency Test; act on rules to be proposed and rules to be adopted as reflected on the attached agenda; approve the 1997 Operating Budget; and conduct other business as reflected on the attached agenda.

Persons requiring reasonable accommodations are requested to contact Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701-3998, (512) 305-7555 or TDD 1-800-735-2989 within 72 hours of the meeting to make appropriate arrangements.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701, (512) 305-7555

Filed: September 20, 1996, 3:58 p.m.

TRD-9613825



Texas Water Development Board

Thursday, September 19, 1996, 9:00 a.m.

Stephen F. Austin Building, Room 118, 1700 North Congress

Austin

Board

EMERGENCY REVISED AGENDA:

Add New Item No. 33: Consider Compromise Settlement Agreement related to Lake Texana interbasin transfer application.

REASON FOR EMERGENCY: The agreement was reached after posting deadline and is necessary for execution to effectuate settlement of administrative proceeding.

Contact: Craig D. Pedersen, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: September 18, 1996, 1:17 p.m.

TRD-9613667



Texas Worker's Compensation Insurance Facility

Monday, September 30, 1996, 9:00 a.m.

Four Seasons Hotel, 98 San Jacinto Boulevard

Austin

Governing Committee

AGENDA:

Executive Session(s) regarding personnel matters and pending legal matters. Following the closed Executive Session(s), the Governing Committee will reconvene in Open and Public Session and take any action as may be desirable or necessary as a result of the closed deliberations. Approval of minutes from the August 27, 1996 Governing Committee meeting. Discussion of the 1995 Annual Financial Audit: Management Letter, Consideration and possible action on servicing company requests for reimbursement of legal fees and expenses. Executive Director's Report.

Contact: Peter E. Potemkin, Executive Director, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: September 20, 1996, 10:33 a.m.

TRD-9613773



Texas Workforce Commission

Thursday, September 26, 1996, 9:00 a.m.

Room 844, TWC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; Staff reports/Update on Skills Development Fund Activities and other agency activities as determined by the Executive Director; Consideration and action on tax liability cases listed on Texas Workforce Commission Docket 39; Discussion, consideration and possible action with regard to submitted applications for certification of various local workforce development boards; Consideration and Action on Acceptance of Donations of Child Care Matching

Funds; Discussion on Actions taken by the Texas Council on Workforce and Economic Competitiveness at September 12-13 Council meeting; Discussion, consideration and possible action on TWC legislative agenda for the next session of the Legislature; Discussion and adoption of the 1998-99 legislative appropriation request; Discussion, consideration and possible approval of FY 1997 Audit Plan and Risk Assessment; consideration and action on whether to assume continuing jurisdiction on unemployment compensation cases; Consideration and action on higher level appeals in unemployment compensation cases listed on Texas Workforce Commission dockets 38 and 39; and Set date and discuss agenda for next meeting.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids, services, or special accommodations are requested to contact Carolyn Calhoon at (512) 463-8812 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Esther Hajdar, Director of Legal Services, Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: September 18, 1996, 3:10 p.m.

TRD-9613684



Regional Meetings

Meetings Filed September 18, 1996

Bosque County Central Appraisal District, Board of Directors, met at 202 South Highway 6, Meridian, September 26, 1996 at 7:30 p.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD 9613681.

Comal Independent School District, Board of Trustees, met at 1421 N. Business 35, New Braunfels, September 25, 1996 at 7:30 p.m. Information may be obtained from Abel Campos, 1521 North Business 35, New Braunfels, Texas 78130, (210) 625-8081. TRD 9613680.

District Judges Meeting, 36th, 156th, 343rd District Courts, met at 400 West Sinton Street, September 23, 1996 at 8:15 a.m. Information may be obtained from Honorable Ronald M. Yeager, 400 W. Sinton Street, Room 207, Sinton, Texas 78387, (572) 364-6200. TRD 9613664.

Education Service Center, Region VIII, Board of Directors, met at the Hot Biscuit Restaurant, 2501 Ferguson Road, Mt. Pleasant, September 26, 1996 at 6:30 p.m. Information may be obtained from Scott Ferguson, Executive Director, Region VIII ESC, P.O. Box 1894, Mt. Pleasant, Texas 75456, (903) 572-8551. TRD 9613668.

Education Service Center, Region XIII, Board of Directors, met at 5701 Springdale Road, Room H, Austin, September 23, 1996, 12:30 p.m. Information may be obtained from Dr. Roy Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 919-5300. TRD 9613662.

Edwards Aquifer Authority, Ad-Hoc Legislative Committee, met at 1615 North St. Marys, San Antonio, September 23, 1996 at 4:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613673.

Edwards Aquifer Authority, Administrative Committee, met at 1615 North St. Marys, San Antonio, September 24, 1996 at 4:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613674.

Edwards Aquifer Authority, Litigation Oversight Committee, will meet at 1615 North St. Marys, San Antonio, September 27, 1996 at 4:30 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613672.

Edwards Aquifer Authority, Board, will meet at 1615 North St. Marys, San Antonio, September 30, 1996 at 7:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613675.

Leon County Central Appraisal District, Board of Directors, met at 103 North Commerce, Corner Hwy 7 and 75, Gresham Building, Centerville, September 23, 1996 at 7:00 p.m. Information may be obtained from Jeff Beshears, Chief Appraiser, P.O. Box 536, Centerville, Texas 75833-0536, (903) 435-2252. TRD 9613669.

Pecan Valley MHMR Region, Board of Trustees, met at 1715 Santa Drive, Weatherford, September 25, 1996 at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, Executive Director, Pecan Valley MHMR Region, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD 9613663.

San Antonio-Bexar County Metropolitan Planning Organization, Transportation Steering Committee, met at the International Conference Center, Convention Center Complex, San Antonio, September 23, 1996, 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD 9613670.

Texas Automobile Insurance Plan Associates, Governing Committee, met at Holiday Inn South, 3401 South IH35, Austin, September 26, 1996, at 8:30 a.m. Information may be obtained from Dianna Brooks, P.O. Box 18447, Austin, Texas 78760-8447, (512) 444-5999. TRD 9613676.

Texas Council on Offenders with Mental Impairments, Executive Committee Meeting, will meet at Price Daniel Building, 5th Floor Conference Room, 209 West 14th Street, Austin, October 3, 1996 at 10:00 a.m. Information may be obtained from Dee Kifowit, Director, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406. TRD 9613695.

Texas Panhandle Mental Health Authority, Board of Trustees, met at 7201 IH40 West, 2nd Floor, Amarillo, September 26, 1996 at 10:30 a.m. Information may be obtained from Shirley Hollis, Administrative Assistant, P.O. Box 3250, Amarillo, Texas 79116-3250, (806) 353-3699, extension 29. TRD 9613697.

West Central Texas Council of Governments, Executive Committee, met at 1025 East North Tenth Street, Abilene, September 25, 1996 at 12:45 p.m. Information may be obtained from Brad Helbert, Executive Director, 1025 EN 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD 9613679.

Meetings Filed September 19, 1996

Central Plains Center for MHMR & SA, Board of Trustees, met at 208 South Columbia, Plainview, on September 26, 1996 at 6:00 p.m. Information may be obtained from Ron Trusler, Executive

Director, 2700 Yonkers, Plainview, Texas 79072, (806)293-2636. TRD 9613733.

Community Action Committee of Victoria, Texas, Board of Directors, Executive Committee, met at 1501 North DeLeon Street, Suite A, Victoria, September 23, 1996. Information may be obtained from Lisa Wiest, 1501 N. DeLeon, Suite A, Victoria, Texas 77902-2142. TRD 9613729.

Dallas Area Rapid Transit, Legal Ad Hoc Committee, met at 1401 Pacific Avenue, Dallas, September 23, 1996, 9:00 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613742.

Education Service Center, Area VIII, Board of Directors, met at the Hot Biscuit Restaurant, 2501 Ferguson Road, Mt. Pleasant, September 26, 1996 at 6:30 p.m. Information may be obtained from Scott Ferguson, Executive Director, Region VIII ESC, P.O. Box 1894, Mt. Pleasant, Texas 75456, (903) 572-8551. TRD 9613731.

Golden Crescent Private Industry Council met at 2401 Houston Highway, Victoria, September 25, 1996 at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD 9613739.

Houston-Galveston Area Council, Transportation Policy Council, will meet at 3555 Timmons Lane, 2nd Floor, Room A, Houston, September 27, 1996, at 9:30 a.m. Information may be obtained from Alan Clark, 3555 Timmons Lane, Houston, Texas 77027, (713) 627-3200. TRD 9613698.

Johnson County Rural Water Supply Corporation, Special Board Meeting, met at the Office, 2849 Highway 171 South, Cleburne, on September 23, 1996 at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613730.

Lower Rio Grande Valley Tech Prep Associate Degree Consortium, Board of Directors, met at the Best Western Palm Aire Motel, Bluebonnet Room, 415 South International Boulevard, Weslaco, September 25, 1996 at noon. Information may be obtained from Mrs. Pat Bubb, Executive Director, TSTC Conference Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD 9613759.

Riceland Regional Mental Health Authority, Joint Hospital Committee, met at 3007 North Richmond Road, Wharton, September 26, 1996 at 10:30 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, 3007 North Richmond Road, Wharton, Texas 77488 (409) 532-03096. TRD 9613736.

Riceland Regional Mental Health Authority, Board of Trustees, met at 3007 North Richmond Road, Wharton, September 26, 1996. Information may be obtained from Marjorie Dornak, P.O. Box 869, 3007 North Richmond Road, Wharton, Texas 77488 (409) 532-03096. TRD 9613737.

San Jacinto River Authority, Board of Directors, met at 2301 North Millbend Drive, The Woodlands, September 25, 1996 at 12:30 p.m. Information may be obtained from James R. Adams or Ruby Shiver, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD 9613758.

Meetings Filed September 20, 1996

Andrews Center, Board of Trustees, met at 2323 West Front Street, Room 208, Tyler, September 25, 1996 at 1:45 p.m. Information may be obtained from Richard J. DeSanto, CEO, P.O. Box 4730, Tyler, Texas 75712, (903) 535-7338. TRD 9613811.

Angelina & Neches River Authority, ANRA Board of Directors, met at ANRA Board Room, 210 Lufkin Avenue, Lufkin, September 24, 1996 at 10:00 a.m. Information may be obtained from Gary L. Neighbors, General Manager, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795. TRD 9613765.

Austin-Travis County MHMR Center, Finance and Control Committee, met at 1430 Collier Street Board Room, September 24, 1996 at 12:00 noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD 9613770.

Brazos River Authority, Water Quality Committee, will meet at Austin Marriott Hotel at the Capitol, 701 East 11th Street, Austin, September 27, 1996 at 9:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (816) 776-1441. TRD 9613819.

Brazos River Authority, Board of Directors, will meet at Austin Marriott Hotel at the Capitol, 701 East 11th Street, Austin, September 27, 1996 at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (816) 776-1441. TRD 9613820.

Capital Area Planning Council, Executive Committee, met at 2520 IH35 South, Suite 100, Austin, September 24, 1996, at 12:00 noon. Information may be obtained from Betty Voights, Executive Director, 2520 IH35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD 9613772.

Capital Area Rural Transportation System (CARTS), Board of Directors, met at CARTS Conference Room, 2010 East 6th Street, Austin, September 26, 1996 at 9:00 a.m. Information may be obtained from Edna M. Burroughs, P.O. Box 6050, Austin, Texas 78702, (512) 389-1011. TRD 9613821.

Central Texas Council of Governments, Work Force Development Board of Central Texas, met at 218B East Avenue D, Killeen, September 26, 1996 at 10:00 a.m. Information may be obtained from Susan Kamas, Director, Workforce Development Division, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD 9613782.

Central Texas Opportunities, Inc., Board of Directors, met at 1200 South Frio Street, Coleman, September 24, 1996 at 7:00 p.m. Information may be obtained from Barbara Metcalf, P.O. Box 820, Coleman, Texas 76834, (915) 625-4167. TRD 9613804.

Dallas Area Rapid Transit, Audit Board, met at Dart Headquarters, 1401 Pacific, Conference Room "B", Dallas, September 24, 1996 at 11:00 a.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613791.

Dallas Area Rapid Transit, Committee of the Whole, met at 1401 Pacific, Conference Room "C", Dallas, September 24, 1996 at 1:00 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613792.

Dallas Area Rapid Transit, Board, met at 1401 Pacific, Dallas, September 24, 1996 at 6:30 p.m. Information may be obtained from Paula J. Bailey, DART, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD 9613793.

Education Service Center, Region XIII, Board of Directors, met (Revised Agenda), at 5701 Springdale Road, Room H, Austin, September 23, 1996 at 12:30 p.m. Information may be obtained

from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 919-5300. TRD 9613780.

Edwards Aquifer Authority, Administrative Committee, met at 1615 North St. Marys Street, San Antonio, September 23, 1996, at 2:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613802.

Edwards Aquifer Authority, Board, (Revised agenda) will meet at 1615 North St. Marys Street, San Antonio, September 30, 1996, at 7:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 N. St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9613803.

Harris County Appraisal District, Appraisal Review Board, will meet at 2800 North Loop West, 8th Floor, Houston, September 27, 1996, at 8:00 a.m. Information may be obtained from Susan Jordan, 2800 North Loop West, Houston, Texas 77902, (713) 957-5222. TRD 9613761.

Hays County Appraisal District, Appraisal Review Board, met at 21001 North IH35, Kyle, September 25, 1996 at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD 9613776.

Hays County Appraisal District, Appraisal Review Board, met at 21001 North IH35, Kyle, September 26, 1996 at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH35, Kyle, Texas 78640, (512) 268-2522. TRD 9613777.

Heart of Texas Region MHMR Center, Board of Trustees, met at 110 South 12th Street, Waco, September 24, 1996 at 11:45 p.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco Texas 76703, (817) 752-3451, extension 290. TRD 9613779.

Johnson County Rural Water Supply Corporation, Special Called Board Meeting, met at the Corporation Office, 2849 Highway 171 South, Cleburne, September 23, 1996 at 6:00 p.m. Information may be obtained from Peggy Johnson, Office Manager, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD 9613778.

Kendall Appraisal District, Board of Directors, met at 121 South Main Street, Boerne, September 26, 1996 at 5:30 p.m. Information may be obtained from Mick Mikulenska or Tammy Johnson, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD 9613835.

Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, October 10, 1996, at 7:30 p.m. Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas, 79009, (806) 238-1405. TRD 9613764.

Pecan Valley MHMR Region, Board of Trustees, Revised Agenda, met at 1715 Santa Fe Drive, Weatherford, September 25, 1996 at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, Executive Director, Pecan Valley MHMR Region, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD 9613788.

South Plains Regional Workforce Development Board, met at 1501 6th Street, Room 107, Lubbock, September 25, 1996 at 3:00 p.m. Information may be obtained from Linda Chamales, P.O. Box 2000, Lubbock, Texas 79413, (806) 767-2215. TRD 9613790.

Surplus Lines Stamping Office of Texas, Board of Directors, met at Hughes and Luce, 111 Congress Avenue, Suite 900, Austin, September 24, 1996 at 10:00 a.m. Information may be obtained from Charles L. Tea, Jr., General Manager, Surplus Lines Stamping

Office of Texas, P.O. Box 9906, Austin, Texas 78766, (512) 346-3274. TRD 9613781.

Texas Association of Regional Councils, Annual Business Meeting, will meet at Holiday Inn Beaumont Plaza, 3950 IH10 South, Beaumont, September 27, 1996 at 2:00 p.m. Information may be obtained from Sheila Jennings or Jim Ray, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD 9613769.

Upper Leon River Municipal Water District, Board of Directors, met at the General Office, located off FM2861, Lake Proctor Dam,

Comanche, September 24, 1996 at 6:30 p.m. Information may be obtained from Upper Leon River MWD, P.O. Box 67, Comanche, Texas 765442, (817) 879-2258. TRD 9613760.

Meetings Filed September 23, 1996

Tarrant Appraisal District, Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, October 3,8,9,10,24 at 8:00 a.m. Information may be obtained from Linda G. Smith, Supervisor, Appraisal Review Board Support, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD 9613874.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

General Services Commission

Request for Proposals

Construction Manager Services

Notice of Invitation for Proposals:

The following is a General Services Commission's notice to all prospective proposer's for CONSTRUCTION MANAGER SERVICES ("CM"). Projects under the Request for Proposal for Construction Manager Services will be for the construction of state office and/or laboratory buildings located in Austin, Fort Worth and El Paso. The Facilities Construction Division of the General Services Commission ("GSC") is the issuing office of this Request for Proposal ("RFP") on behalf of the State. Any reference to the State is applicable to the issuing office representing the State.

GSC is the sole point of contact regarding all procurement and contractual matters relating to the services described in the RFP. The issuing office is the only office authorized to clarify, modify, amend, alter or withdraw any of the terms and conditions of the RFP specifications. Any contract(s) awarded as a result of the RFP is the sole responsibility of the issuing office as well as any modifications to any such contract(s).

Neither GSC nor any potential contract beneficiary accept any obligation for costs incurred by vendors in responding to this RFP nor for any costs incurred prior to the execution of a formal contract. It is understood that all responses will become part of the GSC's procurement files and will be available for public inspection. GSC reserves the right to reject any and all responses received or parts thereof. The State may elect to perform all or part of these services, and may elect to provide services, material equipment and supplies as deemed in the best interest of the State, resulting in respective fee reduction. The State of Texas reserves the preference to award this contract on an all or part basis.

The GSC, under the Texas Government Code, Title 10, Subtitle D, is responsible for planning, providing, and managing facilities for agencies authorized to conduct state business. The services to be performed as described in this RFP and any contract awarded as a

result of this RFP, are governed by and construed according to the laws of the State of Texas.

Preproposal Conference:

A preproposal conference will be held on October 7, 1996, in Austin, Texas. The conference is scheduled from 10:00 a.m. to 12:00 p.m. at the following address: General Services Commission, Central Services Building, Room 402, 1711 San Jacinto. The purpose of the conference is to review the content of the RFP and to answer attendees' questions. NOTE: ATTENDANCE IS MANDATORY AND IS A PREREQUISITE FOR SUBMISSION OF A PROPOSAL.

Copies of the RFP:

Copies of the RFP will be available on September 27, 1996. To obtain a copy, contact Mr. John C. Patterson, Project Manager, General Services Commission, 1711 San Jacinto, P.O. Box 13047, Austin, Texas 78711-3047; or phone (512) 463-3417.

Closing Date for Receipt of Proposals:

The proposal must be submitted and time stamped at the General Services Commission, 1711 San Jacinto, Room 180, Austin, Texas, before 5.00 p.m. on October 21.

Basis of Award

It is the intent of the State to award a contract to the proposer(s) whose proposal is considered in the best interest of the State based on the criteria set forth in the RFP.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613837

Judy Ponder

General Counsel

General Services Commission

Filed: September 23, 1996



Small Contractor Participation Assistance Program

Notice of Invitation for Proposals:

The following is General Services Commission's notice to all prospective proposers who are interested in providing service for the SMALL CONTRACTOR PARTICIPATION ASSISTANCE PROGRAM ("SCPAP"). The Facilities Construction Division of the General Services Commission is the issuing office of this Request for Proposal ("RFP") on behalf of the State.

The SCPAP is targeted for small business contractors who may wish to receive technical and other business related assistance in order to have an opportunity for increased participation in state public works projects. GSC contemplates awarding of as many as three contracts under this RFP. One contract may be awarded for the technical assistance, insurance and bonding components. A second contract may be awarded for the public outreach component. A third contract may be awarded for the financial component. The three contracts, or any combinations thereof, may be awarded to different proposers or to a single proposer. Proposers may submit proposals for one or more of the three contemplated contracts.

GSC is the sole point of contact regarding all procurement and contractual matters relating to the services described in the RFP. The issuing office is the only office authorized to clarify, modify, amend, alter or withdraw any of the terms and conditions of the RFP specifications. Any contract(s) awarded as a result of the RFP is the sole responsibility of the issuing office as well as any modifications to any such contract(s).

Requests for RFP and Written Questions

Copies of the RFP will be available on September 27, 1996. To obtain a copy, contact Mr. John Shorter at the address and phone number listed as follows.

All questions concerning the RFP must be submitted in writing and sent to the Facilities Construction Division, General Services Commission, P.O. Box 13047 (1711 San Jacinto Blvd.), Austin, Texas 78711-3047, Attention: Mr. John Shorter, PH: (512) 463-4313, or transmitted by facsimile to FAX: (512) 463-3311 by 5:00 PM on Friday, October 4, 1996. Written questions will be consolidated for response after Friday, October 4, 1996, and all prospective proposers who received a copy of the RFP from GSC will receive a copy of the consolidated written response.

Preproposal Conference

A preproposal conference will be held on Thursday, October 3, 1996, in Austin, Texas. The conference is scheduled 9:00 a.m. to 11:00 a.m. at the following address: General Services Commission, Central Services Building, Room 402, 1711 San Jacinto. The purpose of the conference is to review the intent of this RFP and to answer attendees' question. Attendance is voluntary and is not a prerequisite for submission of a proposal.

Closing Date for Receipt of Proposals

Proposals must be received before 3:00 p.m. prevailing local time, Friday, October 11, 1996. Proposals may be mailed to: General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Hand delivered and/or express mailed proposals are to be sent to the General Services Commission, 1711 San Jacinto Blvd., room 180, Austin, Texas 78701.

Vendor Qualifications

Generally, proposers must meet the following basic minimum qualifications for consideration for award of any contract(s) resulting from

the RFP: (1) Proposers must have a minimum of three consecutive years experience directly performing the services delineated in the RFP with the exception of insurance and bonding, which requires a minimum of five consecutive years of experience in the respective industries; (2) Proposers must show proof of applicable certifications, registrations and/or licenses. Failure to provide said proof within the submitted proposal may subject the proposal to disqualification; (3) Proposers must provide proof of compliance with any applicable insurance requirements within ten working days of offer. Failure to provide proof of compliance within 10 working days of offer may subject the proposal to disqualification or subject an award to cancellation; (4) Proposers must provide information pertaining to individuals, joint venturers, partners, etc. who will perform services for the State. Such information must allow the State to make an accurate assessment of who will be performing services for the State.

Preferred Proposer Qualifications:

Preferred consideration will be given to respondents who have current membership in professional management organizations.

Basis of Award

It is the intent of the State to award a contract(s) to the proposer whose proposal is considered in the best interest of the State based on the criteria set forth in the RFP.

Notice of Award

The GSC's Executive Director or Executive Deputy Director shall issue a written Notice of Award to the successful proposer establishing a contract between the State and the selected proposer.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613856

Judy Ponder

General Counsel

General Services Commission

Filed: September 23, 1996



Office of the Governor-Criminal Justice Division

Residential Substance Abuse Treatment for Adults and Juveniles In Correctional Facilities, Request for Applications

The Criminal Justice Division of the Governor's Office is soliciting applications for projects to provide residential substance abuse treatment to adults and juveniles incarcerated in correctional facilities. Complete guidelines for the Residential Substance Abuse Treatment Program are available in the application kit.

Applications must include both the residential phase, six to twelve months, and the aftercare phase, six to twelve months, of treatment. Drug testing is mandatory in both phases of treatment. Note: Although preference will be given to programs that provide aftercare, federal grant funds can not be used to fund (nor can match dollars be used to fund) aftercare services under the Residential Substance Abuse Treatment Program.

Eligible applicants are state agencies and counties that operate secure correctional facilities. Applicants who receive grants may provide services directly in correctional facilities that they operate or they may contract with qualified service providers who meet all licensing and certification requirements.

The total amount available under this RFA is \$2,531,297. There is no maximum amount that may be applied for, but applicants should be aware that cost-effectiveness will be taken into consideration in the selection process. The minimum amount that may be applied for is \$5,000. Small and large jurisdictions, state agencies, and regional approaches serving two or more counties are encouraged to apply. In selecting applications for grant award, CJD will seek a balance of funding between adult/juvenile populations, state agencies/local agencies, and urban/rural areas subject to quality of applications received and results of competitive scoring.

Grant-funded projects must begin on March 1, 1997. Grants shall be awarded for a project period of 18 months.

Grantees must provide a cash match of 25% of the total project costs.

Special application kits specific for this fund may be obtained from the Criminal Justice Division of the Governor's Office, Box 12428, Austin TX 78711, attn: Criminal and Juvenile Justice Programs. The telephone number is (512) 463-1944. An original and six copies of completed applications must be submitted to the same agency. In addition, local projects must submit one copy to their regional Council of Governments for TRACS review, and statewide projects must submit one copy to Tom Adams, Budget Division of the Governor's Office, for TRACS review.

Applications must be received at the Governor's Criminal Justice Division no later than 6 p.m. on Monday, December 2, 1996, attention: Nancy Carrales.

CJD staff will conduct an initial screening of applications to determine eligibility. The executive director of CJD may appoint an internal review team to score and rank applications. Team members will include CJD staff, regional council representatives, and other persons with expertise in corrections and substance abuse treatment.

For further information call Glenn Brooks, Director of Justice Programs, Criminal Justice Division, at (512) 463-1944.

Issued in Austin, Texas, on September 20, 1996.

TRD-9613805

Pete Wassdorf

Deputy General Counsel, Office of the Governor

Office of the Governor-Criminal Justice Division

Filed: September 20, 1996



Texas Department of Housing and Community Affairs

Housing Demonstration Fund

The Texas Department of Housing and Community Affairs hereby announces that for the purposes of the Texas Community Development Program's Housing Demonstration Fund that affordable rents for multi-family housing units as established by the U.S. Department of Housing and Urban Development have been adopted. The 1996 maximum rent limits are based on 65% of median income and are published in the Housing Demonstration Fund application guide. The Housing Demonstration Fund is available to provide funds for public facilities in support of the development of single and multi-family low to moderate income housing. Comments will be accepted for 14 days from the date of this publication. Requests for copies of the application guide should be submitted to Ruth Cedillo, Director,

Community Development Block Grant Program at the following address: Texas Department of Housing and Community Affairs, P.O. 13941, Austin, Texas 78711-3941.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613853

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: September 23, 1996



Request For Proposals To Establish and Operate Colonia Self-Help Centers

The Texas Department of Housing and Community Affairs (TDHCA) is accepting proposals from local non-profit organizations, community action agencies, or housing authorities that have experience and have demonstrated ability to carry out self-help center activities in designated colonias, as described in Senate Bill 1509 (Chapter 2306, Subchapter Z, Government Code). Under Senate Bill 1509, TDHCA is required to establish a colonia self-help center in Webb County. TDHCA will enter into a contract with Webb County for colonia self-help center services. The county will enter into a contract with the non-profit Texas State Affordable Housing Corporation. The self-help center operator selected in turn will enter into a subcontract with the Texas State Affordable Housing Corporation.

A self-help center in Webb County shall be established to provide resources necessary to assist low and very low income individuals and families, finance, refinance, construct, improve or maintain, a safe suitable home in the colonias' designated service area or in another area TDHCA has determined as suitable. The self-help center operator will be responsible for applying for grants and loans to provide housing and other needed community improvements; helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residents in a colonia; and other services necessary to assist colonia residents in improving their physical living conditions, including obtaining suitable housing outside of a colonia area.

Proposals must be received at TDHCA headquarters in Austin, Texas no later than 5:00 p.m., Tuesday, October 22, 1996. Please call Andy Alarcon or Juan Palacios of the Office of Colonia Initiatives at 1/800/462-4251 for a Request For Proposal package or for additional information.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613852

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: September 23, 1996



Texas Department of Human Services

Notice of Public Hearings

The Texas Department of Human Services (TDHS) will conduct public hearings to receive comments on proposed reimbursements for programs specified in this notice. The hearings are held in compliance

with 40 TAC §24.101(b)(4), which requires public hearings on proposed reimbursement for medical assistance programs. The public hearings will be held on October 11, 1996 in the Public Hearing

Room (Room 125E, First Floor, East Tower) of the John H. Winters Building (701 West 51st Street, Austin, Texas).

<u>Program</u>	<u>Time</u>
Nursing Facility; Hospice-Nursing Facility; Swing Bed; and Bienvivir Waiver	8:30 a.m.
Community Based Alternatives Waiver (CBA); Primary Home Care/Family Care; and Emergency Response Services	10:00 a.m.
Day Activity and Health Services (DAHS)	11:30 a.m.
Assisted Living Services/ Residential Care of the Community Based Alternatives Waiver (CBA); and Residential Care	1:30 p.m.
Community Living Assistance and Support Services Waiver (CLASS)	3:00 p.m.

[graphic]

If you are unable to attend a hearing, but wish to comment on proposed reimbursements, written comments will be accepted if received by 5:00 p.m. of the day of the hearing. Please address written comments to the attention of Carolyn Pratt. Written comments may be mailed to the address noted as follows, delivered to the receptionist in the lobby in the John H. Winters Center, or faxed to (512) 438-3014. Interested parties may request to have mailed to them or may pick up briefing packages concerning the proposed reimbursements on or after September 27, 1996 by contacting Carolyn Pratt, MC W-425, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-4057.

Persons with disabilities planning to attend this hearing who may need auxiliary aids or services are asked to contact Carolyn Pratt, (512) 438-4057 by October 4, 1996, so that appropriate arrangements can be made.

Issued in Austin, Texas, on September 20, 1996.

TRD-9613818
Glen Scott
General Counsel

Texas Department of Human Services
Filed: September 20, 1996

Texas Department of Insurance

Correction of Error

The Texas Department of Insurance submitted Notice of Hearing. The notice appeared in the September 17, 1996, issue of the *Texas Register* (21 TexReg 9008).

The following error was published due to submission.

On page 9016, the reference to Docket Number 454-95-1280.G should read Docket Number 454-96-1638.G.

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for a name change in Texas for Pacific Compensation Insurance Company, a foreign fire and casualty company. The proposed new name is Fremont Pacific Insurance Company. The home office is in Glendale, California.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on September 19, 1996.

TRD-9613757
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: September 19, 1996

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Notices

On September 19, 1996, in Order Number 96-1098, the Commissioner of Insurance adopted amendments to the Texas Automobile Insurance Plan Association, Plan of Operation.

For copies of Commissioner's order number 96-1098 and the Texas Automobile Insurance Association Plan of Operation, contact Angie Arizpe at (512) 463-6326 (refer to file number A-0796-33).

Issued in Austin, Texas, on September 19, 1996.

TRD-9613754
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: September 17, 1996

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The Texas Health Reinsurance System held a Board of Directors' Meeting on September 10, 1996. Pursuant to 28 TAC §26.201, the System must publish notice of any amendments to its Plan of Operation and procedure manual.

At this Meeting the following amendment to its Plan of Operation was made:

The Actuarial Committee with the assistance of Milliman & Robertson, Inc. is authorized to prepare a report to the Commissioner on the change described herein and that the Plan of Operation is amended to not allow the ceding of a newborn risk to the System unless a parent or mother is also ceded to the System, effective December 1, 1996 and subject to the approval of the Commissioner. The Actuarial Committee is also authorized to decide whether the father and/or mother is the appropriate requirement to be incorporated into this change.

Pursuant to Texas Insurance Code Annotated articles 26.53 and 26.55, this amendment is subject to the approval of the Commissioner of Insurance, which approval or non-approval will occur in the future.

Issued in Austin, Texas, on September 19, 1996.

TRD-9613753
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: September 19, 1996

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Notices of Public Hearings

The Commissioner of Insurance, at a public hearing under Docket Number 2253 scheduled for October 31, 1996 at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a petition filed by United Services Automobile Association (USAA). The USAA petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to amend Rate Section IV., Rule 77.A.3., Exception, by changing the rating factors for high value motorhomes. USAA's petition (Reference Number A-1295-42) was filed on December 8, 1995.

USAA's petition explains that the exception set forth in the Manual's Rate Section IV., Rule 77.A.3. requires use of rating factors for motorhomes that result in premiums that make "no economic sense" in some instances. For example, the premium required for a \$230,000 motorhome is much higher than the premium for a \$350,000 motorhome, according to an exhibit attached to the petition. USAA asserts that for motorhomes valued at \$420,000 or higher, "an insurer would have to pay an insured for the privilege of providing coverage" on the vehicle. USAA is concerned that because of today's availability of motorhomes valued well in excess of \$200,000, some owners of high value motorhomes are probably having difficulty obtaining coverage in the regulated market.

USAA's petition, specifically in Exhibit B, proposes a solution to the problem by capping the rate factor reduction at the stated amount value of \$200,000 to "assure that increasing motorhome values above \$90,000 will result in increasing—not decreasing—premiums." The petition's Exhibit B also shows proposed revisions to rating factors for motorhomes valued from \$90,000 to \$199,999.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-1295-42).

Written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P. O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P. O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on September 23, 1996.

TRD-9613868
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: September 23, 1996

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The Commissioner of Insurance, at a public hearing under Docket Number 2254 scheduled for October 31, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), to adopt new and/or adjusted 1995-97 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0996-37-I) was filed on September 19, 1996.

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the various model years of the listed vehicles.

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; refer to (Reference Number A-0996-37-I).

Written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P. O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P. O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Issued in Austin, Texas, on September 23, 1996.

TRD-9613869
Caroline Scott
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: September 23, 1996

Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of Davis-Garvin Agency, Inc., a foreign third party administrator. The home office is Columbia, South Carolina.

Application for incorporation in Texas of Tybor & Associates, Inc., a domestic third party administrator. The home office is Houston, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613867
Caroline Scott
General Counsel and Chief Clerk

Texas Department of Insurance
Filed: September 23, 1996

Texas Lottery Commission

Invitation for Bids for Court Reporting

The Texas Lottery Commission is soliciting bids to obtain court reporter services for the Texas Lottery Commission headquarters as provided in the Invitation for Bid.

Objectives.

The Texas Lottery requires court reporter services on an as needed basis as indicated in the Invitation to Bid. The Texas Lottery Commission headquarters is located in Austin, Texas.

Schedule.

Event /Date

IFB Issued— September 24, 1996

Bid Due Date—October 10, 1996 (11:00 a.m. CT)

Primary term. Prices quoted must be in effect for the primary term of this contract which is the date of execution through August 31, 1997. At its sole option, the Texas Lottery Commission may extend this contract for two one-year periods following the primary term (August 31, 1997).

For a copy of the complete Invitation for Bids please contact:

Joanne Severn
Purchasing Supervisor, Texas Lottery Commission
512-323-3662

Issued in Austin, Texas, on September 18, 1996.

TRD-9613665
Ridgely C. Bennett
Staff Attorney
Texas Lottery Commission
Filed: September 18, 1996

Texas Department of Mental Health and Mental Retardation

Notice of Medicaid State Plan Amendment

The Texas Department of Mental Health and Mental Retardation (TDMHMR) is planning to submit a Medicaid state plan amendment to allow for the adjusting of 1996 community-based ICF/MR reimbursement rates when federal or state laws are changed in ways that can reasonably be expected to affect allowable costs or alter the rates of change in allowable costs.

This action will ensure that reasonable and necessary costs are covered for community based ICF/MR facilities that serve persons with mental retardation. The amendment will be effective October 1, 1996.

Federal Minimum Wage legislation effective October 1, 1996, is covered by this amendment. Salary cost portions of the rate calculation will be adjusted in light of the minimum wage increases.

Those rates increasing by 2% or more, after the adjustment, will be increased for all providers in that class for the time period of October 1, 1996, to December 31, 1996. The net increase in aggregate expenditures for ICFs/MR is estimated to be \$1,415,139. The community mental health and mental retardation centers that contract with TDMHMR may be contacted for copies of the proposed amendment.

Copies also may be obtained for public review by writing to Medicaid Administration, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711- 2668, or by calling (512) 206-5754.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613883

Ann K. Utley

Chair, Texas MHMR Board

Texas Department of Mental Health and Mental Retardation

Filed: September 23, 1996



Texas Natural Resource Conservation Commission

Notice of Applications for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of September 12th thru September 20, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement "I/we request a public hearing;" (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

CITY OF BAIRD, 328 Market Street, Baird, Texas 79504, the wastewater treatment facilities are immediately east of the TP Lake dam and immediately south of the Texas-Pacific Railroad right-of-way in Callahan County, Texas, amendment, 10037-01.

CITY OF BUFFALO, P.O. Box 219, Buffalo, Texas 75831, the wastewater treatment facilities are adjacent to and east of Marion Boulevard, approximately 3/4 mile north-northeast of the intersection of U.S. Highways 75 and 79 in Leon County, Texas, amendment, 10022-01.

CITY OF COLEMAN, P.O. Box 592, Coleman, Texas 76834, the water treatment plant is on North Mississippi Street in the City of Coleman in Coleman County, Texas, renewal, 10150-03.

ERGON ASPHALT & EMULSIONS, INC., P.O. Box 1639, Jackson, Mississippi 39215- 1639, a facility which manufactures asphalt emulsions, the plant site is at the northwest corner of U.S. Highway 281 and Trade Street in the City of Pleasanton in Atascosa County, Texas, new, 03900.

CITY OF GARRISON, P.O. Box 207, Garrison, Texas 75946, the wastewater treatment plant is located 0.25 mile east of U.S. Highway 59 and 0.25 mile north of Farm-to-Market Road 138 in the City of Garrison in Nacogdoches County, Texas, renewal, 11304-01.

CITY OF GRAPELAND, P.O. Box 567, Grapeland, Texas 75844, the Plant Number 2 Wastewater Treatment Plant, the plant site is east of U.S. Highway 287, approximately 1,000 feet north of the intersection of U.S. Highway 287 and Farm-to-Market Road 2423 in Houston County, Texas, renewal, 10181-002.

HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT Number 92, c/o Coats, Rose, Yale, Holm, Ryman & Lee, 800 First City Tower, 1001 Fannin, Houston, Texas 77002-6707, the wastewater treatment facilities are at the northeast end of Bell Chase Lane, approximately 2 miles east of Spring in Harris County, Texas, renewal, 10908-01.

CITY OF HOUSTON, Department of Public Works and Engineering, P.O. Box 262549, Houston, Texas 77207-2549, the wastewater treatment facilities are on the West Belfort Avenue, approximately 1.3 miles west of the intersection of West Belfort Avenue and U.S. Highway 59 in Harris County, Texas, renewal, 10495-107.

IDLEWOOD PROPERTY OWNERS ASSOCIATION, INC., P.O. Box 3056, Lufkin, Texas 75903-3056, the wastewater treatment facilities are approximately 0.6 mile northeast of .S. Highway 69, approximately 1.5 miles northwest of the City of Lufkin and 1.9 miles southeast of the intersection of U.S. Highway 69 and Farm-to-Market Road 2021 in Angelina County, Texas, amendment, 11620-01.

COUNTY OF KLEBERG, P.O. Box 752, Kingsville, Texas 78364, the wastewater treatment facilities are in the southwest corner of the Town of Ricardo, approximately 0.1 mile west of U.S. Highway 77 and approximately 0.34 mile south of Farm-to-Market Road 1118 in Kleberg County, Texas, amendment, 13374-03.

LUXURY LODGES OF TEXAS, INC., P.O. Box 168, Texarkana, Texas 75504, the North Gate Park Wastewater Treatment Facilities, the facilities are approximately 500 feet northwest of the intersection of Interstate Highway 30 and U.S. Highway 71, on the north side of the City of Texarkana in Bowie County, Texas, renewal, 10981-01.

NORTH TEXAS MUNICIPAL WATER DISTRICT, P.O. Box 2408, Wylie, Texas 75098, the wastewater treatment facilities are 200 feet

east of Los Rios Boulevard, approximately 700 feet north of Farm-to-Market Road 544, one mile west of Farm-to-Market Road 544 crossing of Rowlett Creek and approximately 3.5 miles east of the City of Plano in Collin County, Texas, renewal, 10363-01.

PHILLIPS PETROLEUM COMPANY, P.O. Box 866, Sweeney, Texas 77480, Permittee operates the Freeport Terminal I which is a marine loading and unloading facility with storage of crude oil and petroleum products and the Jones Creek Terminal is a crude oil storage facility, the Freeport Terminal is located at the north end of County Road 731 about 1 mile northeast of the intersection of County Road 713/FM Road 1495 southeast of the City of Freeport. The Jones Creek Terminal is located about 1.5 miles southeast of the Town of Jones Creek and approximately 5 miles west of the City of Freeport. These terminals are in Brazoria County, Texas, renewal, 01852.

SPECIAL CAMPS FOR SPECIAL KIDS, 8111 Preston Road, Suite 807, Dallas, Texas 75225, the wastewater treatment facilities are approximately six miles east of Meridian and approximately thirteen miles north of Clifton in Bosque County, Texas, renewal, 13536-01.

TEMPLE-INLAND FOREST PRODUCTS CORPORATION, P.O. Drawer N, Diboll, Texas 75941, the Kraft pulp and paper mill plant is located approximately one mile south of Farm-to-Market Road 2246 and one mile southeast of the Town of Evadale, Jasper County, Texas, amendment, 00493.

TEXAS OIL & GATHERING INC, 1500 Willow Bend Drive, Alvin, Texas 77511, proposes to operate a hydrocarbon separation facility, the plant site is on Farm-to-Market Road 2917 at the intersection of the Missouri Pacific Railroad and northeast of the City of Liverpool in Brazoria County, Texas, new, 03903.

TEXAS PARKS AND WILDLIFE DEPARTMENT, P.O. Box 1066, Sabine Pass, Texas 77655, the wastewater treatment facilities are adjacent to State Highway 87, approximately 12 miles west of the intersection of Farm-to-Market Road 3322 and State Highway 87 in Jefferson County, Texas, renewal, 11692-01.

TRINITY RIVER AUTHORITY, P.O. Box 1554, Huntsville, Texas 77342-1554, the wastewater treatment facilities are approximately 1,500 feet east of the City of Onalaska and approximately 5,000 feet southwest of the intersection of U.S. Highway 190 and Farm-to-Market Road 3186 in Polk County, Texas, amendment, 11298-01.

CITY OF WEST UNIVERSITY PLACE, 3800 University Boulevard, Houston, Texas 77005, the wastewater treatment facilities are approximately 1,000 feet west of Kirby Drive between Brays Bayou and North Brayswood Street in the City of Houston in Harris County, Texas, renewal, 10058-01.

INTERCONTINENTAL ENERGY CORPORATION (IEC), Route 1, Box 650, Three Rivers, Texas 78071, authorizes the subsurface disposal of non-hazardous wastes generated on-site by the permittee at their Zamzow facility during mining and restoration phases of the mining process. the facility is located seven miles east of Three Rivers on FM 1358 in Live Oak County, Texas, to renew and amend Permit Number WDW-159.

ARCO CHEMICAL COMPANY, P.O. Box 30, Channelview, Texas 77530, to authorize the continued operation of an industrial solid waste storage and processing facility for the management of hazardous and non-hazardous wastes and for a compliance plan (Proposed Compliance Plan Number CP-50288) to authorize groundwater monitoring and corrective action at the facility. The proposed

permit will authorize the continued operation of the following waste management units currently operating under interim status: 25 existing tanks, three existing container storage areas, and three existing surface impoundments for the storage and/or processing of hazardous and Class 1 and Class 2 industrial solid wastes. The facility manufactures synthetic organic chemicals. Wastes are generated on-site at the ARCO Chemical Company manufacturing plant and also received from off-site sources, the facility is located at 2502 Sheldon Road, approximately two and three-fourths miles north of Interstate 10, on approximately 582 acres in Channelview, Harris County, Texas, new, Permit Number HW-50288, 45 day notice.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613880

Gloria A. Vasquez

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: September 23, 1996

Texas Natural Resource Conservation Commission

Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Health and Safety Code, the Texas Clean Air Act (the Act), Chapter 382, §382.096. The Act, §382.096, requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the Texas Register no later than the 30th day before the date on which the public comment period closes, which in this case is October 27, 1996. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12124 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the Enforcement Coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087 Austin, Texas 78711-3087 and must be received by 5:00 p.m. on October 27, 1996. Written comments may also be sent by facsimile machine to the Enforcement Coordinator at (512) 239-1893. The TNRCC Enforcement Coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1)COMPANY: AA Manufacturing, Incorporated; DOCKET NUMBER: 96-0878-AIR-E; ACCOUNT NUMBER: DB-3830-A; LOCATION: Garland, Dallas County, Texas; TYPE OF FACILITY: sheet metal fabrication plant; RULE VIOLATED: 30 TAC §115.421(a)(9)(A)(ii), 115.426(a)(1), and 116.110(a), and the Act,

§382.0518(a) and §382.085(b), by exceeding the regulatory Volatile Organic Compound (VOC) emission limit, failing to satisfy the recordkeeping requirements for VOCs, and failing to obtain a permit or qualify for a standard exemption; PENALTY: \$0; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(2)COMPANY: A.Z. Auto Sales; DOCKET NUMBER: 93-1013-AIR-E; ACCOUNT NUMBER: EE-1803-N; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1) and the Act, §382.085(b), by offering for sale two vehicles with missing emission control systems or devices; PENALTY: \$0; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 778-9634.

(3)COMPANY: Chavez Trucking, Inc; DOCKET NUMBER: 96-0610-AIR-E; ACCOUNT NUMBER: EE-0461-D; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: local trucking company; RULE VIOLATED: 30 TAC §111.143(3)(B) and the Act, §382.085(b) by transporting particulate materials without covers; PENALTY: \$2,940; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 778-9634.

(4)COMPANY: Credit Auto Sales; DOCKET NUMBER: 96-1385-AIR-E; ACCOUNT NUMBER: KB-0152-J; LOCATION: Terrell, Kaufman County, Texas; TYPE OF FACILITY: used car sales lot; RULE VIOLATED: 30 TAC §114.1(c)(1) and (2) and the Act, §382.085(b), by offering for sale a vehicle with missing and inoperable required emission control systems or devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mary Jennings, (512) 239-1864, REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312 Fort Worth, Texas 76116, (817) 732-5531.

(5)COMPANY: Dixie Chemical Company; DOCKET NUMBER: 96-0983-AIR-E; ACCOUNT NUMBER: HG-0199-M; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: petrochemical plant; RULE VIOLATED: 30 TAC §101.20(1) and the Act, §382.085(b), 40 CFR 60.112b(a)(3)(ii) and 60.18, by failing to test the performance of the Plant B flare; 30 TAC §115.112(a)(3), 115.116(a), 115.116(a)(3)(b), and 116.116(a) and the Act, §382.085(b), by failing to operate the vapor recovery control condenser at a minimum control efficiency of 90% for tanks T-353 and T-354, failing to record the inlet and outlet temperature of the condenser for tanks T-353 and T-354, failing to install a continuous monitor for tanks T-353 and T-354, and failing to obtain a permit amendment for Permit Number 1995; PENALTY: \$4,550; ENFORCEMENT COORDINATOR: Gloria Standford, (512) 239-1871; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023, (713) 767-3500.

(6)COMPANY: D.J. Paint & Body Shop; DOCKET NUMBER: 96-0876-AIR-E; ACCOUNT NUMBER: HX-0795-U; LOCATION: Spring, Harris County, Texas; TYPE OF FACILITY: automotive repair and refinishing shop; RULE VIOLATED: 30 TAC §116.115(a) and the Act, §382.085(b), by failing to meet provisions (a) and (k) of Standard Exemption 124. Specifically, by not filing Registration Form PI-7, and having a spray booth stack with an elevation less than 1.2 times the height of the shop building; PENALTY: \$0; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670;

REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023, (713) 767-3500.

(7)COMPANY: Jaguar Paint & Body Shop; DOCKET NUMBER: 96-0877-AIR-E; ACCOUNT NUMBER: HX-0621-I; LOCATION: South Houston, Harris County, Texas; TYPE OF FACILITY: automotive repair and refinishing shop; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by operating without first obtaining a permit or satisfying the conditions of a standard exemption; PENALTY: \$0; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023, (713) 767-3500.

(8)COMPANY: Jones and Sons Auto Sales; DOCKET NUMBER: 96-1381-AIR-E; ACCOUNT NUMBER: KB-0155-D; LOCATION: Terrell, Kaufman County, Texas; TYPE OF FACILITY: used car sales lot; RULE VIOLATED: 30 TAC §114.1(c)(1) and (2) and the Act, §382.085(b), by offering for sale a vehicle with missing and inoperable emission control systems or devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mary Jennings, (512) 239-1864; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312 Fort Worth, Texas 76116, (817) 732-5531.

(9)COMPANY: Kemco-Hunter Chemical Company; DOCKET NUMBER: 96-1251-AIR-E; ACCOUNT NUMBER: HG-0421-L; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: chemical blending and packaging plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by failing to obtain a permit or meet the conditions of an exemption; PENALTY: \$0; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500.

(10)COMPANY: Lake Pointe Medical Center; DOCKET NUMBER: 96-0792-AIR-E; ACCOUNT NUMBER: RJ-0052-T; LOCATION: Rowlett, Rockwall County, Texas; TYPE OF FACILITY: hospital waste incinerator; RULE VIOLATED: 30 TAC §111.123(1)(C) and the Act, §382.085(b), by failing to record hours of operation and quantity of waste burned; 30 TAC §111.123(1)(D) and §111.129(1) and the Act, §382.085(b), by operating after one hour before sunset; 30 TAC §111.123(1)(A) and the Act, §382.085(b), by charging the incinerator with waste before reaching a temperature of 1,400 degrees Fahrenheit in the secondary burn chamber; and 30 TAC §116.115 and the Act, §382.085(b), by operating the incinerator with visible emissions; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: David Edge, (512) 239-1779; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(11)COMPANY: Milwhite, Incorporated; DOCKET NUMBER: 96-1170-AIR-E; ACCOUNT NUMBER: C2-0004-K; LOCATION: Van Horn, Culberson County, Texas; TYPE OF FACILITY: talc grinding and packaging plant; RULE VIOLATED: 30 TAC §111.111(a)(1)(A), (8)(A), and §116.110(a) and the Act, §382.0518(a) and §382.085(b), by allowing visible emissions above limit from calciner scrubber, allowing and causing excessive visible talc fines emissions at 100% opacity from loading elevator and shaker screen, failing to obtain a permit or satisfy the conditions for an exemption prior to initiating the construction of a calciner unit, and failing to renew TNRC Permit Number 2107 for talc powder grinding mill; PENALTY: \$6,450; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL

OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 778-9634.

(12)COMPANY: Pressing Answers, Incorporated; DOCKET NUMBER: 96-0827-AIR-E; ACCOUNT NUMBER: TA-3006-J; LOCATION: 5025 NE 28th Street, Fort Worth, Tarrant County, Texas; TYPE OF FACILITY: metal fabrication plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by failing to obtain a permit or satisfy the conditions of a standard exemption prior to constructing and operating a facility that conducts spray painting that may emit contaminants into the air of the state; PENALTY: \$0; ENFORCEMENT COORDINATOR: Dona Lambacher, (512) 239-1898; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(13)COMPANY: Tello's Paint and Body Shop; DOCKET NUMBER: 96-1183-AIR-E; ACCOUNT NUMBER: GB-0534-A; LOCATION: Texas City, Galveston County, Texas; TYPE OF FACILITY: automotive repair and refinishing shop; RULE VIOLATED: 30 TAC §116.115(a) and the Act, §382.085(b), by failing to meet Standard Exemption 124(h), (k), (n), and (p). Specifically, by not using high transfer efficiency coating application equipment, having a stack with an elevation less than 1.2 times the height of the tallest building within 200 feet, using paints or solvents which exceed the VOC content limit specified in 30 TAC §115.421(a)(8)(C), and failing to maintain Material Safety Data Sheets for the paints and solvents used readily available on site; PENALTY: \$350; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023, (713) 767-3500.

(14)COMPANY: The Car Lot, Incorporated; DOCKET NUMBER: 96-1384-AIR-E; ACCOUNT NUMBER: DB-3240-E; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: used car sales lot; RULE VIOLATED: 30 TAC §114.1(c)(1) and (2) and the Act, §382.085(b), by offering for sale a vehicle with missing and inoperable required emission control systems and devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mary Jennings, (512) 239-1864; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(15)COMPANY: Truman Arnold Companies; DOCKET NUMBER: 96-0850-AIR-E; ACCOUNT NUMBER: HV-0073-S; LOCATION: Caddo Mills, Hunt County, Texas; TYPE OF FACILITY: bulk fuels storage and loading terminal; RULE VIOLATED: 30 TAC §101.6 and the Act, §382.085(b), by failing to notify of estimated emissions from an upset condition; 30 TAC §101.7 and the Act, §382.085(b), by failing to notify of estimated emissions that resulted from planned maintenance; 30 TAC §116.115 and the Act, §382.085(b), by failing to perform quarterly leak-checking for fugitive emissions with an approved gas analyzer on nonseals/leakless valves as required by TNRCC Permit Number 17234, failing to perform quarterly leak-checking for fugitive emissions with an approved gas analyzer on pumps/compressors as required by TNRCC Permit Number 17234, failing to maintain adequate records of leak-checking monitoring required by TNRCC Permit Number 17234, failing to sample gasoline for benzene or obtain gasoline analysis from the delivering refinery as required by TNRCC Permit Number 17234 and failing to maintain adequate records of tanks for the purpose of assuring compliance with emission limitations as required by TNRCC Permit Number 17234; PENALTY: \$18,375; ENFORCEMENT COORDINATOR: Kevin Cauble, (512) 239-1874; REGIONAL OFFICE: 6421 Camp

Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(16)COMPANY: Victor Equipment Company; DOCKET NUMBER: 96-0836-AIR-E; ACCOUNT NUMBER: DF-0048-V; LOCATION: Denton, Denton County, Texas; TYPE OF FACILITY: welding and cutting equipment manufacturing plant; RULE VIOLATED: 30 TAC §115.421(a)(9)(A)(ii) and the Act, §382.085(b), by exceeding the allowable emission limitation for volatile organic compounds delivered to the application system; PENALTY: \$2,150; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

Issued in Austin, Texas, on September 23, 1996

TRD-9613859

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: September 23, 1996

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Public Notice

The Texas Natural Resource Conservation Commission (TNRCC) is considering a new penalty policy and has approved an interim small entity/minor source no-penalty policy on August 28, 1996. Both documents are available to the public and the agency will be accepting comments until October 31, 1996. Copies may be obtained by contacting Agency Publications at 512/239-0028 or accessing the TNRCC Web Site: <http://www.tnrcc.state.tx.us/enforcement/index.html>. Please send comments to Ann McGinley, Director, Enforcement Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613881

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: September 23, 1996

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Public Utility Commission of Texas

Notices of Applications to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on September 9, 1996, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act of 1995 (PURA), §§1.101, 3.051(b), 3.251, 3.253 and 3.254, Texas Revised Civil Statutes Annotated, Article 1446c-0 (Vernon Supp. 1996). A summary of the application follows.

Docket Title and Number. Application of Dell Telephone Cooperative, Inc. to Amend Certificate of Convenience and Necessity Within Jeff Davis County. Docket Number 16406.

The Application. In Docket Number 16406, Dell Telephone Cooperative, Inc. seeks approval to amend the exchange area boundary between Contel of Texas Van Horn exchange and Dell Telephone

Cooperative, Inc. Guadalupe Peak exchange to provide telephone service to a single customer currently without service.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf on or before November 1, 1996. Effective September 26, 1996, the Commission is relocating its offices the new mailing address will be: Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613879

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: September 23, 1996



Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 4, 1996, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act of 1995, §§1.101(a), 2.201, 2.101(e), 2.252, and 2.255. A summary of the application follows.

Docket Title and Number: Application of New Era Electric Cooperative, Inc. to Amend Certificate of Convenience and Necessity for a Proposed Transmission Line within Anderson County, Docket Number 16385 before the Public Utility Commission of Texas.

The Application: In Docket Number 16385, New Era Electric Cooperative, Inc. requests approval of the application to construct approximately 4.0 miles of 138-kV transmission line within Anderson County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458- 0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice. Effective September 26, 1996, the Commission is relocating its offices the new mailing address will be: Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326.

Issued in Austin, Texas, on September 23, 1996.

TRD-9613878

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: September 23, 1996



Notice of Joint Interconnection Agreement

On September 10, 1996, Southwestern Bell Telephone Company (SWB) and U. S. Long Distance, Inc. (U. S. Long Distance) collectively referred to as Applicants filed a joint application for approval of an interconnection agreement under the federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.). and the Public Util-

ity Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated,. Article 1446c-0 Vernons Supp. 1996). The joint application has been designated Docket Number 16420. The joint application and the underlying interconnection agreement are available for public inspection at the Commission's offices in Austin, Texas.

The FTA authorizes the Commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the Commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the Commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The Commission must act to approve the agreement within 90 days after it is submitted by the parties.

The Commission finds that additional public comment should be allowed before the Commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the Commission's Filing Clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16420. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by October 11, 1996, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the Commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 for the text telephone. Effective September 26, 1996, the Commission will relocate its offices to 1701 North Congress Avenue, Austin, Texas. The mailing address will be P. O.

Box 13326, Austin, Texas 78711-3326. All correspondence should refer to Docket Number 16420.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613696

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: September 18, 1996



Railroad Commission of Texas

Correction of Error

The Railroad Commission of Texas submitted Order Granting Waivers of Pipeline Safety Rules and Standards to Permit Clock Spring Repairs. The order appeared in the August 13, 1996, issue of the *Texas Register* (21 TexReg 7698).

Due to errors by the *Texas Register*, corrections are noted as follow.

In the first column, second paragraph, first line: "Exxon Company, .S.A." should read "Exxon Company, U.S.A.";

In the second column, sixth paragraph, second line: no period is required after the word "Numbers";

In the second column, sixth paragraph, fifth line: ".S. Department of Transportation" should read "U.S. Department of Transportation".



Texas Savings and Loan Department

Correction of Error

The Texas Savings and Loan Department proposed amendments to §67.17 and §77.91. The rules appeared in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8558 and 8559).

Due to a publication error, the certification statements were left out. It should read: "This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt."



Texas Department of Transportation

Public Hearing Notice

In accordance with, Transportation Code, §201.602, the Texas Transportation Commission will conduct a public hearing to receive data, comments, views, and/or testimony concerning the commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions. It is emphasized that the subject of the hearing will be the procedure by which projects are selected and not the merits or details of specific projects themselves.

The public hearing will be held on Thursday, October 31, 1996 at 1:00 p.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas. The hearing will be held in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making

presentations will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with pertinent comments or testimony concerning the selection procedure will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time and repetitive comment. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend the hearing and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Kerry Kutch, community relations manager, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8954 at least two working days prior to the hearing so that appropriate arrangements can be made.

Copies of the criteria/information will be available beginning September 30, 1996 at the department's Camp Hubbard Annex, 4000 Jackson Avenue, Building 1, Room 320, Austin, (512) 302-2278. Written comments may be submitted to the Texas Department of Transportation, Attention: Alvin R. Luedecke, P.E., P.O. Box 5051, Austin, Texas 78763-5051. The deadline for receipt of comments is 5:00 p.m. on November 8, 1996.

Issued in Austin, Texas, on September 20, 1996.

TRD-9613766

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: September 20, 1996



Texas Youth Commission

Consulting for a Compensation Study for TYC Superintendents and TYC Assistant Superintendents

1. The request for proposal for consulting services is filed under the provisions of the Texas Civil Statutes, Article 6252-11c.

2. The Texas Youth Commission (TYC) Human Resource Department seeks the assistance of specialists in the field of compensation analysis to develop methodology, provide recommendations for and guidance in the implementation of a compensation package for TYC Superintendents and Assistant Superintendents. The Texas Youth Commission desires a study and recommendations that will provide an adequate and equitable compensation package for TYC Superintendents and Assistant Superintendents. The study must be based on the following criteria: Number of employees supervised; number of beds (youth) managed; programs and type of population; geographical disparity; workforce availability; and emoluments. The development of qualifications or job descriptions for the Superintendents and Assistant Superintendents is not required. The proposal should include a pay rate chart and a methodology to be used in the event demographic changes by institution. Proposers must provide cost, available start date, and estimated completion dates for consultant assistance to develop methodology, and recommendations and guidance in the

implementation of a compensation package for TYC Superintendents and Assistant Superintendents based on limited data and resources.

3. Inquiries and requests for a complete copy of the RFP requirements should be made to Eric Young, Director of Human Resources, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78665 (512/483-5131; FAX 512/483-5089). Any questions regarding the proposal requirements must be received in writing a minimum of two weeks prior to the deadline of the proposal submission. Answers to questions that are of a general nature will be provided to all prospective proposers. Answers to questions of a specific nature will be provided to the proposer submitting that question. TYC will be the sole judge as to whether the question is general or specific.

4. The deadline for receipt of proposals shall be no later than 2:00 p.m. on November 8, 1996. Proposals may be mailed or hand delivered to the office of Eric Young by 2:00 p.m. on or before November 8, 1996. It is the intent of the Agency to notify the successful proposer on or before November 22, 1996. The Contracting Officer will notify the successful proposer. The date for the commencement of services described in this request shall be on or about November 25, 1996. The completion date for the project will be established as the contract(s) is negotiated with the consultant. However, TYC has set January 15, 1996 as a target date.

5. A point system will be used to evaluate proposals. The criteria for evaluation will focus on the clarity and feasibility of the proposed plan; the extent to which the plan includes a fair and equitable compensation package for the two positions; the practicality of a proposal for a recommendation on guidance of implementation; the total cost of the bid to complete the objective; consultant's experience in relevant past projects; and ability to commence project in accordance with TYC's desired schedule. All other things being equal, preference will be given to a consultant whose principal place of business is within the state or who will manage the contracted project from its office within the state.

Issued in Austin, Texas, on September 18, 1996.

TRD-9613661

Steve Robinson

Executive Director

Texas Youth Commission

Filed: September 18, 1996

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